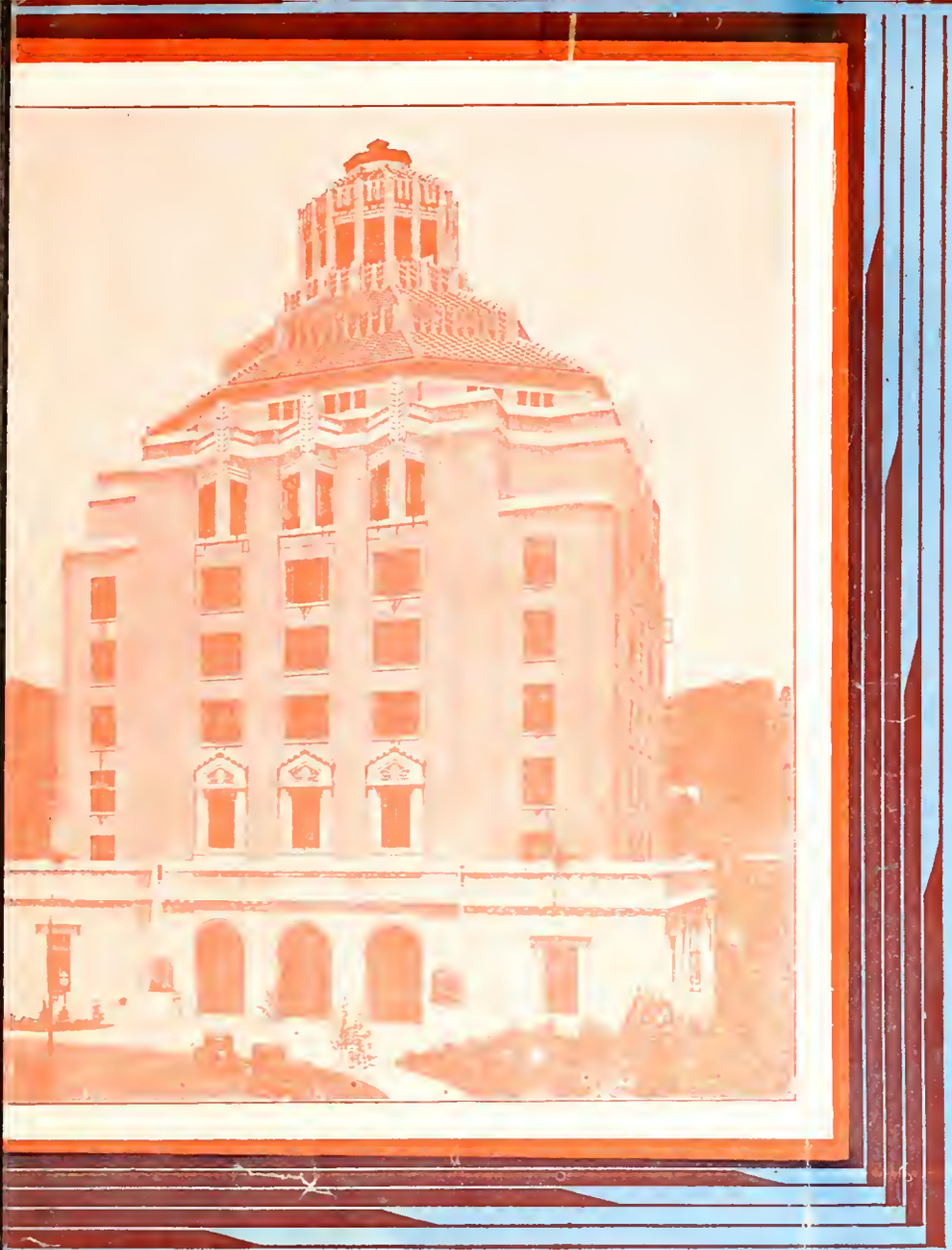

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OCTOBER, 1935

VOL. 3, NO. 1

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POPULAR GOVERNMENT

VOLUME 3
NUMBER 1

PUBLISHED MONTHLY BY THE INSTITUTE OF GOVERNMENT

OCTOBER
1935

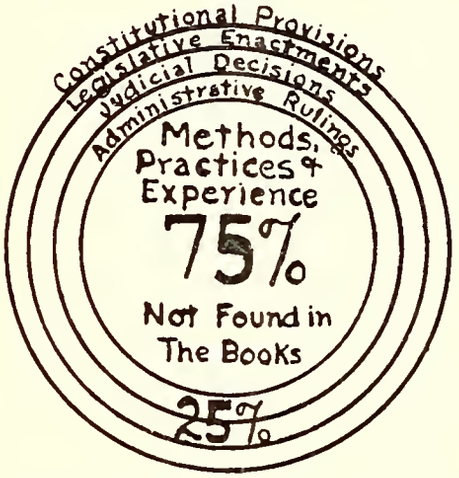
Government in Books and in Action

By ALBERT COATES
of the staff of
The Institute of Government

With rare exceptions the high schools, colleges and professional schools of North Carolina are every year graduating around twenty thousand boys and girls, knowing something of civics but little of government; knowing how to read a page of Latin but not knowing how to read their own municipal balance sheet; knowing how to find their way around Rome but not knowing how to find their way around their own City Hall, County Courthouse or State Capitol.

Hundreds of officials are each year going into office without having an opportunity to acquaint themselves with the powers and duties of their offices. Thousands of citizens are each year going to the ballot box without adequate knowledge of the structure and the workings of the federal, state, and local governmental institutions whose destinies they determine. Voting is too often a game of blind man's buff.

The comparative studies of government in action being made by the Institute of Government staff under the direction of superintendents, principals, and teachers of civics and government, set forth in this and succeeding issues of POPULAR GOVERNMENT, are beginning to furnish an answer to the question facing 855 North Carolina high schools instructing 150,000 future voters, namely: *How can we bridge the gap between government as it is taught in the schools and government as it is practiced in the City Halls, County Courthouses, and State Departments of this Commonwealth?*



American Institutions

With Communism sweeping from Russia into Southern Europe, with Fascism sweeping from Italy into Northern Europe, with Hitlerism striving to escape the confines of Germany, with English institutions trying to steer their course between these triple shoals and hardly able to withstand the rising tide of Socialism, with these mounting waves breaking on American shores, the time has come for us to re-examine the foundations and the superstructure of American governmental institutions, to look to the rock whence they were hewn and build upon it.

American governmental institutions will stand or fall, not on account of what goes on over there but on account of what goes on over here. They are in danger when the citizens who live under them do not understand them, and not understanding them do not know how to stand up for them. They are in danger when people with the ballot fail to vote. They are in danger when votes and voters can be bought and sold. They are in danger when public office is prostituted to private gain. They are in danger when public funds are lost through lack of proper safeguards. They are in danger when public records are kept in such shape that no one can tell what shape they are in. They are in danger when laxity in law enforcement or collusion with crime permits the criminal to go unpunished. Not in Stalin or Mussolini or Hitler but in ourselves our danger lies.

The End of an Epoch

The schools are opening in North Carolina today against the background of a thousand years of struggle to transfer the power to govern from the king to the people. The first part of the last century be-

Presidential Election of 1932—North Carolina Popular Vote

Population	3,244,000
Voting Age (1930)	1,542,125
Voted	710,218

Out of every one hundred people in North Carolina, forty-eight were of voting age and only twenty-two voted.

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gan to rub out the property line which stood between the citizen and his ballot and allowed men without property to vote; 1868 and the years that followed rubbed out the color line and permitted Negroes to vote; 1919 rubbed out the sex line and allowed women to vote. Through the removal of these barriers of property, color and sex practically all people over twenty-one years old are privileged to participate in their government.

When we consider that only half the people of voting age go to the polls, we realize that the struggle for Popular Government has just begun. We have won the *forms* of Popular Government. We will not win the *substance* until we bring the people who have won the power to govern into an active and understanding participation in public affairs.

It is this struggle which gives point and purpose to the program of governmental education beginning in the public schools and continuing through the rank and file of public officers and private citizens in North Carolina today. In the study of our own governmental institutions, in the ascertainment and correction of their faults, in their gradual adaptation by evolution rather than by revolution to ever changing needs, we have the greatest guarantee of the preservation and development of American Governmental Institutions—the surest protection from the twin dangers of the dictator and the demagogue.

Notes from the Cities and Counties

Concord is receiving wide praise for its success in reducing the city's bonded indebtedness by half during the past 10 years, without noticeable reductions in the public service. At the same time, property valuations have been reduced 20 per cent and the tax rate slashed from $1.42 to $1.10 (since 1930), making the total reduction to the man who pays the bill equivalent to 43 per cent.

Taxpayers ascribe as the reasons an efficient, business-like administration, together with the fact that the citizens have not demanded that their officials keep pace with every other city in the State.

* * *

The town of Orrum applied for a WPA project recently, but the Government requires that 90 per cent of the labor shall be drawn from the relief rolls, and Orrum has no relief rolls. It has been suggested accordingly that Orrum import enough poor folks to qualify.

Hiddenite and Sharpe's Township No. 1 in Alexander County form another section which has come through the depression under its own steam. Only one family has been on relief, and only six residents of the township were employed on a relief project involving an addition to the Hiddenite school.

* * *

One of the State's most comprehensive programs of community canneries is that in Mecklenburg. Fifteen units are operated in various sections of the County with the Home Demonstration Agent as general supervisor. Laborers for the projects are provided by the FERA, while the county furnishes the cans along with a supervisor for each unit. The County's share of the canned products is distributed to good advantage through the Welfare Department.

* * *

Several local units have reported a "new low" for recent bond sales. Thus Cabarrus County disposed of $23,500 worth of 20-year school building bonds at three and one-half per cent, with a $350 premium, the lowest rate in the county's history. Rates for short term issues were correspondingly lower.

* * *

Safety Campaigns were conducted in a number of cities and towns throughout the State last month with reports of wide interest, excellent co-operation from the civic clubs, citizens groups and newspapers, and productive results the order of the day. One of the most interesting devices tried was the organization of an "I Will Drive Safely" club in Winston. Other large cities to stage campaigns included Charlotte, Durham, and Raleigh.

* * *

Henry A. Yancey comes to Durham as City Manager October 1, succeeding R. W. Flack, who resigned to accept a similar post in San Diego, Cal. A civil engineer by training, Mr. Yancey, who is now City Manager of Petersburg, Va., has also made a fine name as a fiscal officer, and comes to Durham highly recommended.

* * *

Winston-Salem has met increases in gasoline prices with orders for an investigation and threats of municipal competition. "We are not advocating that the government go into all kinds of business," says Mayor W. T. Wilson, recognizing the dangers thereof. "But we do think the public should be protected."

Our Cover Picture

One of the largest and most imposing city halls as well as one of the most beautiful in the State is that in Asheville, the subject of our cover picture this month. The structure was erected at the peak of Asheville's unprecedented "boom" several years ago, and although the statement is frequently heard that the tourist city could have done with a much smaller and less expensive building, it has the advantage of providing adequate space and facilities for years of growth and expansion. A modernistic symphony in marble, brick, and tile, the Asheville City Hall is eight stories in height, and is situated next to the equally imposing Buncombe County Court House on a beautifully developed plaza just off Pack Square, commanding a magnificent view of the surrounding mountains.

Commissioner R. Flake Shaw, who "sold" his Board on the plan in the beginning and to whose interest and efficient supervision are due much of the credit for its successful operation.

Raise Your Own, Says Guilford

•

Guilford County has made vigorous attack on the problem of idle prisoners, increasing relief loads, and rising food prices with a county-owned and operated dairy farm which may well serve as an example to other counties of the State. The Dairy, which commenced operations in January, 1933, furnishes all the milk and butter necessary for the County Sanitarium, Home, Jail, and Convict Camp—$13,000 worth of it a year, to be exact. Quite a profitable return for a $12,000 investment with an annual budget of $9,500! Especially when the latter figure includes the whole of the salary of Dr. M. E. Coyle, superintendent of the Dairy, who is also available to supervise farming operations at a second unit.

Its venture in the dairy business having proved such a success financially, the County this spring purchased a third farm containing 692 acres, and is extending its farming activities on a wide scale. The Board hopes to be able to do the same thing with the "New Farm" that it has already done with the Dairy. In fact, Commissioner R. Flake Shaw, to whom the job of supervising the County's farming operations has been delegated, predicts that Guilford should be able to reduce from 50 to 60 per cent the $25,000 it has been spending per year *with outside agencies* on food for its public charges.

The latter figure was not high to begin with. The average number of people maintained at the various county institutions is 150 for the Sanitarium, 155 at the County Home, 70 in the Jail, and 50 at the Convict Camp. A total of 425, making the average cost of food *purchased from outside agencies* per person $58.82 a year, $4.90 a month, and 16.33 cents a day. And now Guilford figures to cut that in half! The Board is also looking to the "New Farm" to reduce materially the item of feed for the stock at the Dairy. This runs around $3,600 a year, and Mr. Shaw estimates that it can be cut at least in half.

Two considerations led to Guilford's entry in the farming and dairying business: the large number of persons in the County Sanitarium and Home to be fed, and the fact that the County has at all times a large number of *short-term* prisoners whom the State will not take and for whom care and employment must be provided. The County's action in taking over all relief work in Greensboro and High Point furnished the principal reason for enlarging the farm program this spring. The relief work has been costing $150,000 a year, and naturally, the food needs are so great, a market is provided for everything the County can produce.

As Commissioner Shaw puts it, "The set-up is perfect. With free labor and a market for everything that can be produced, the whole matter is resolved into one of economical production and the proper man." Judging by the figures for the operation of the Dairy, Guilford's able and efficient Board has solved both problems with its customary business-like efficiency.

Mr. Shaw believes that it will pay any county of any size to operate a farm. "There is no argument against it," he says. "The county has the labor and has to feed them anyway, and it can produce the food cheaper than it can buy it, saving money for the taxpayer. Moreover, we do not invade any cash crop market. We don't grow tobacco for that reason. All we are trying to do is to feed our people the most economical way."

The handsome Guilford County

Guilford County's model Dairy with three specimens from its prize herds. The operation has proved such a success from every standpoint, the county recently purchased an additional 692-acre tract and is extending its farming activities on a wide scale. Dr. M. E. Coyle (left), a trained veterinarian, is in charge of the central dairy farm.

Dairy, which is situated on old Highway Number 10 just east of Greensboro and which is widely admired by passers, and its two farms are operated exclusively with convict labor except for superintendents, foremen, and guards, numbering six in all. Mr. Shaw, who is known as an excellent business man as well as one of the County's most successful farmers, exercises general supervision over all farming operations. His compensation is on a per diem basis solely. The modern barn, milk house, and other buildings were constructed with free labor from materials off the farms at a fraction of the commercial cost. Between 75 and 80 cows are kept with an average milking herd of 50 head.

Guilford's model dairy and farm also have a valuable by-product educationally, serving as a demonstration center for the farmers of the County. Demonstrations of fertilizer and seeds, control of obnoxious grasses, soil building, and erosion control are only a few of the many things which are taught. Complete diversification of crops is practiced and a live stock program under way which will include everything from chickens to pure blooded horses. Perishables are canned, serving the dual purpose of keeping them off the market and of putting up supplies for the winter months, while complete cost records are kept on every crop and every shipment of produce to a County institution.

All of which is invaluable to the average farmer and which is going a long way toward realizing Mr. Shaw's plan to prove to the farmers of the County that it is possible to have a "self-maintained, self-contained farm in Guilford County."

County Commissioners Criticize Legislature

By JOHN L. SKINNER, Secretary

The 28th annual Convention of County Commissioners was probably the largest attended of any we have ever held. Delegates were present from 75 counties, including not only Commissioners but also Registers of Deeds, County Accountants, and a number of County Attorneys. A resolution was passed making County Attorneys full members with authority to cast the vote for their counties when no Commissioner could attend the meetings.

It was encouraging to see the interest in local government evinced by every one present. It seemed to be the unanimous opinion that the County Commissioners could do a better job of handling county affairs if the Legislature would refrain from passing bills increasing the cost of county government without notice to those charged with the responsibility for balancing the budget. Numerous instances were cited where the local Representative secured the passage of bills increasing salaries or creating new jobs without consultation with the Commissioners.

The Legislature also was criticized for failure to provide a more effective Tax Foreclosure Law or to allow the County Commissioners to give the people better and more economical government by consolidation of unnecessary offices. In fact, it was the general opinion that the Legislature had done little to improve local government, and that the sessions of 1933 and 1935 had handicapped rather than aided the prompt collection of taxes by bills giving discounts to delinquents and delaying tax foreclosures. This practice has resulted in more delinquencies and if persisted in will eventually ruin the Counties.

Oppose Proposed $1,000 Homestead

The gathering was vehement in its opposition to the proposed constitutional amendment to exempt homesteads of a thousand dollars from taxation. It was stated that, based on several average counties, the State would lose more than three hundred million dollars in valuations, that this would operate practically as a blanket exemption for all Negroes, and that considered with the present Homestead Exemption Law it would ruin every county and city in the State.

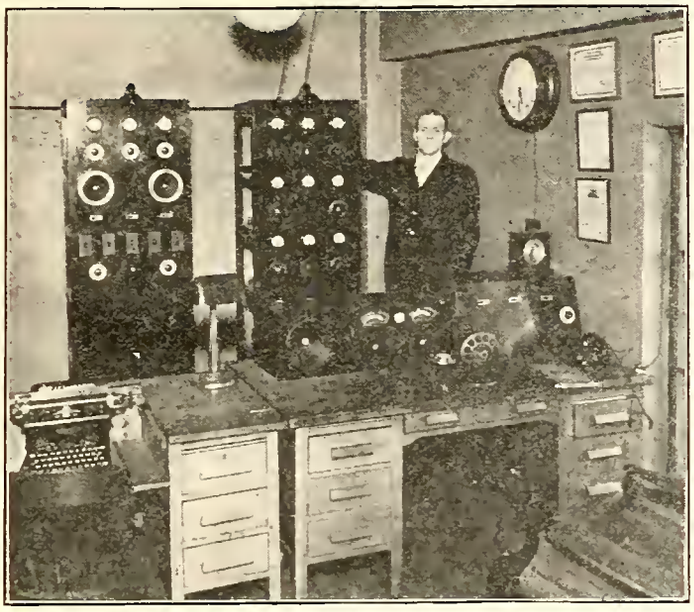
The Legislature should have seen that this was an exceedingly unwise measure in view of the constitutional limitation on counties for necessary expenses. When the limiting amendment was passed, every county in the State had nearly double the present valuation. What would the reaction have been if the amendment had been five or six cents? That would be the practical effect of the present limitation when reductions in valuations of 75 per cent in some counties are considered.

The Currituck County officials say that this amendment if passed and put into effect will reduce their present valuations this much—75 per cent. When you consider that this County's valuations are already reduced one third, it is seen how disastrous the effect would be.

Praise Ehringhaus and Commission

Resolutions were passed endorsing the present administrative and fiscal policies of Governor Ehringhaus, who came in for high praise for leading the State out of bankruptcy. The Local Government Commission also was highly praised by a number of delegates. Statements of the press that the Commissioners do not appreciate the value of the Commission were ridiculed. It was due to the Association that we have the Local Government Commission; it was set up at our own insistence and stands high with our entire group.

The County Commissioners were honored to have as visitors Lieutenant Governor A. H. Graham, State Treasurer Charles M. Johnson, Secretary of State Stacy Wade, George McNeill, Senator W. P. Horton, Commander Henry Stevens, Henry Brandis, Jr., and Dillard S. Gardner of The Institute of Government staff, and others. Dr. John D. Robinson of Duplin was elected President for the coming year, T. R. Wolfe of Stanly Vice-President, and J. L. Skinner Secretary-Treasurer.



Asheville's police radio broadcasting station, located on top of the county court house and used by both city police department and sheriff's office. Shown here is A. Z. Bridgewater, local engineer, who installed the set. The set was originally built by Ralph Kiibler, local amateur and now operator of the station.

Man in the House!

By MALCOLM SEAWELL,
of The Institute of Government Staff

THE TELEPHONE bell in the office of the desk sergeant tinkles, he picks up the receiver, and a voice exclaims, "There's a man in my house!"

The sergeant takes his pencil, "Yes, ma'am. Where is your house?"

The address is given, and the sergeant notes it down. He then throws the radio switch and presses down on the signal button. At that moment the patrol cars of the city are cruising around the residential section. The radios throw out the signal, the officers slow down their car. One of the officers reaches for a writing board and pencil. The desk sergeant's voice comes over the air, "Calling Car 98. Calling Car 98. Calling Car 98. Go to 1621 Wilson Drive. There's a man in the house. Go to 1621 Wilson Drive. There's a man in the house. Go to 1621 Wilson Drive. There's a man in the house. This is station W4XQ Howard, N. C., police radio."

In the meantime the officers have turned the car in the direction of the address and are stepping on the gas. Sometimes before the call is finished the car is stopping at the address. Seldom does it take over three to five minutes for the car to appear on the scene.

The above occurrence could take place any hour of the day or night in nine North Carolina cities. Charlotte, Asheville, Winston-Salem, Durham, High Point, Hickory, Greensboro, Raleigh, and Salisbury all have radio as part of the police equipment. Other cities are making plans to install radio, and the State itself, in connection with the Highway Patrol, is to build sets that will carry orders from Raleigh to the motorcycles and patrol cars anywhere in the State.

Charlotte had the first police radio system in the State, the set there being one constructed by two home town boys at a cost of $2,000.00. Plant built radios at that time would have cost $5,000.00. The Charlotte station started operation in the summer of 1931 and at that time was one of the first fifteen or twenty in the country. This station has been picked up at various points over the country and uses a frequency checking service in New York. At present the city uses the radio on its motorcycles and its ten patrol cars, besides cooperating with the fire department in sending out all fire alarms over the air. The cost of maintenance of the station and the receiving sets is around $1,000.00 a year.

Asheville followed Charlotte and installed a home built set. The set was installed without cost to the City of Asheville, the builder donating the set upon being made operator for the station. The cost of equipping the cars with receiving sets was around $1,500.00. In Buncombe County the sheriff has installed radios in the cars of his deputies, which, added to the cars in Asheville, provide fifty radio equipped cars for the war on crime in the city and county. The yearly upkeep cost is approximately $2,000.00. The Asheville station has been heard as far west as California.

The other police radio stations in the State use the Terra-wave sets. It might be explained that the Charlotte and the Asheville stations operate with the regular short wave systems which radio listeners have heard so often in use between amateur stations. The other departments in the State use the "ground wave" sets. These are more limited in frequency and cannot be picked up over the regular short wave sets. There is no quarrel among the departments as to which sets are the better. The terra wave is competent when used just by the city department; if there is need for the sheriff's department to use radio in co-operation with the local police department—then the Charlotte or Asheville system would be more dependable.

The best explanation of the improvements which police radio has brought to those towns using it can be found in comparing it with the old system of police communication as shown in actual crimes.

In one town not long ago a junk dealer telephoned that a man was at the yard trying to sell a new automobile tire. The information was sent over the air to one of the patrol cars. In less than two minutes the car had appeared on the scene and the officers had arrested a man with a stolen automobile. Under the old communication system the desk sergeant, upon receiving the call, would have turned on a light located on the top of the city standpipe. The officers, granting that they saw the light immediately, would have driven by headquarters, received instructions and then gone to the junk yard. This would have taken ten minutes at the earliest.

(Continued on page 19)

Doubled in numbers and furnished with the most up-to-date equipment available, the expanded State Highway Patrol took the field this month with the supervision of applications for the new State Drivers' Licenses as its first big commission. Capt. Charles D. Farmer is pictured above with two of his men and the equipment they will use.

The Patrol, which is being looked to to effect a material reduction in the toll of life and property on North Carolina highways, has been enlarged from 57 to 120 men, comprising three troops and 12 divisions with 77 sub-stations, and equipped with 40 new, high powered roadsters in addition to the customary motorcycles. The men, who represent high standards physically and educationally and who include something like 25 college men, received nine weeks of intensive training before being sworn in and sent out to make war on reckless drivers and faulty equipment.

Court House Chaff

Trained Chicks

Out on the Guilford County farm last spring were the world's most educated baby chicks. They were, from the time the incubator hatched them, mothered by a man who spends sixty days on the farm, one day off, and then finds himself back for another sixty day period. Another guest at the farm is Guilford County's most illustrious chicken thief—We'll call him Frank True. The "mother" decided that the chicks should be warned against the depredations of the thief; so he started them off on their education. In two weeks he had them so that when he stuck his head in the door and whispered, "Frank True," the chicks would run from the middle of the room and hide themselves under the shelves and in the corners of the brooding house. Even if they were eating their mid-day meal, they would run at the sound, "Frank True."

It Works Both Ways

A Tax Supervisor of our acquaintance was recently requested by a property owner to give him a list of arrears of taxes on his lot on Main Street. In order to locate the property on the tax map the Supervisor asked the names of the cross streets between which the lot was located. The property owner told him. The Supervisor then asked whether the lot was on the right or left side of Main Street. "The right side," said the owner. "Going which way?" asked the Supervisor. "Why," said the owner, "going either way."

The Thanks We Get

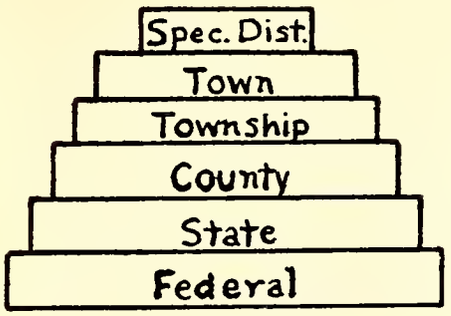
Recently a persistent and elusive burglar was carrying on his trade in Winston-Salem. Chief Anderson gave the word for two patrol cars to answer every "man in the house" broadcast. One Saturday evening the phone rang and a quaking voice yelped, "There's a man in my house!" The call was put on the radio and then the officers in the station jumped in the emergency car and flew around to the address, which was a mile from the police station. The car was there within three minutes. As the officers came in the door the lady of the house stormed out, "Why the hell didn't you get here quicker?!!" An officer said, quite meekly, "Ma'am, we got here just as quick as we could. It's Saturday night and—" "Saturday night, HELL," was the reply. "We can get killed just as *%&@ easy on Saturday night as any other night of the week!!"

Monkey Business

In a recent criminal trial in one of our eastern counties, a former business associate of the defendant, a rather elderly man, had been put on the witness stand by the defense to testify as to the good character of the defendant. Under the questioning of the defense counsel he testified that he had been in business with the defendant for a number of years and had formed a high opinion of the defendant's character. On cross examination the Solicitor asked the witness if he knew that the defendant had once been arrested for peeping in windows. The old gentleman pondered that for a moment. "Well," he said, "we weren't in that business together."

No Room for Error Here

Complete accuracy in the description of the crime charged is not a virtue of all the warrants we have seen, but recently there came to our attention a situation where complete accuracy of description is attained. So accurate is the description from the practical standpoint, in fact, that it charges a type of crime not specifically recognized in our statutes. The members of a city police department, feeling that a man who is no longer conscious cannot be described as disorderly in any active sense of the word, designate such cases on the warrant as "drunk and down."



The Great Pyramid— — Our Governmental Structure

In the three hundred years and more that have elapsed since the day the first settlers appeared on our shores, the people of North Carolina have built on the same soil a pyramid of overlapping governmental units: federal, state, county, township, town, special district.

All citizens of North Carolina live under at least the first four. All those in city limits live under the first five. All those outside city limits but in special districts live under five. All those in city limits and special districts live under at least six governmental units and more if there are overlapping special districts.

These interlocking, overlapping and conflicting governmental units represent interlocking, overlapping and conflicting governmental interests. They have grown up at different times to meet different needs in the course of our history. They are with us today. They form the framework of our governmental structure and are essential to an understanding of our governmental problems. They color the performance of all our major governmental functions.

To illustrate: A person who commits a crime may be arrested by the town policeman, the township constable, the county sheriff, the state patrolman or the federal agent, depending on the nature of the crime. City, county, state or federal prosecuting attorneys may be authorized to prosecute him. City, county, state or federal courts may be authorized to pass judgment upon him. He may be confined in city, county, state or federal prisons.

He may be taxed by special districts, and by city, county, state, and federal governmental units.

His health may be safeguarded by city, county, state and federal health officials.

He may be tided over periods of unemployment and destitution by city, county, state, and federal relief agencies.

His conduct may be regulated through laws passed by city councilmen, county commissioners, legislators, and federal representatives in Congress.

In this issue of POPULAR GOVERNMENT we undertake to outline (1) the entry of each of these governmental units into our governmental structure, (2) the chief reasons for its entry, and (3) the principal functions performed by each. In succeeding issues, these governmental functions will be developed in detail.

THE UNITED STATES

The present territorial boundaries of the United States were established between the years 1584 and 1853. In 1584 the English colonists first put foot on Roanoke Island. By 1776 three million people were settled in thirteen colonies along the Atlantic Seaboard, claiming the Mississippi river as their western boundary. In 1818 the Canadian boundary was extended westward to the Rocky Mountains and in 1846 to the Pacific Coast. The purchase of Louisiana in 1803, the purchase of Florida in 1819, the annexation of Texas in 1845, the Mexican War Treaty purchase of New Mexico and California in 1848 and the Gadsden purchase in 1853 pushed territorial limits across the continent to the Pacific Coast and rounded out our Southern and Western boundaries. These successive steps expanded the area of the United States from 892,135 square miles in 1790 to 3,026,789 square miles in 1853—its present area.

By 1776 the first colony had been multiplied by thirteen. By 1790 the

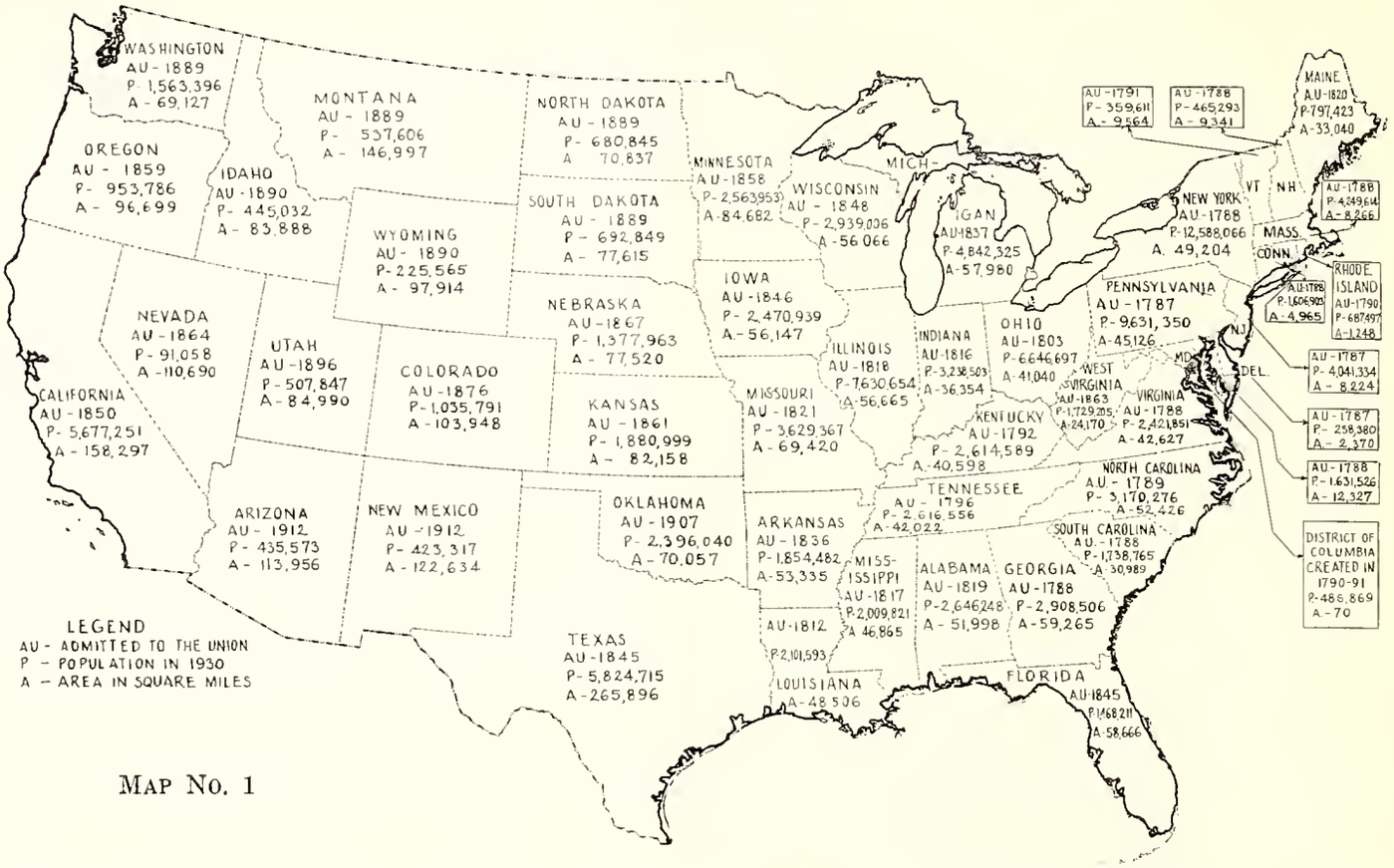
Know Your Government

The October issue marks the addition to POPULAR GOVERNMENT of a new section which will be a regular feature in the future, and which is designed at the same time for study in civics and government classes in North Carolina high schools and for the use of citizens and officials generally who would know more about their government.

This plan is part of The Institute of Government's larger program to bridge the gap between government as it is taught and practiced and to put every citizen in touch with his government and keep him in touch with it. In addition to the materials which will be carried in POPULAR GOVERNMENT each month, supplementary studies, such as the recent "Guides to Highway Safety," will be furnished from time to time along with special studies, discussion programs, etc., for civic clubs and citizens' groups.

Close to 100 North Carolina high schools already are using these materials, having earned their supply without cost to the schools in the drive for members in The Institute of Government last spring. At the request of State Superintendent Clyde Erwin and of a number of principals whose schools were unable to participate last spring, The Institute is pleased to announce that this drive will be renewed for a short period in October with the same offer and opportunity to the schools to earn practical materials on government plus needed funds for their libraries.

Interested schools are invited to address their requests for information to The Institute of Government, Box 352, Chapel Hill, N. C.



MAP NO. 1

thirteen colonies had become thirteen states. By 1837 the thirteen states had doubled, by 1889 they had tripled, by 1912 the forty-eighth state was admitted to the union and the broad outlines of our state and federal governmental structure were complete. The first state to ratify the Constitution was Delaware in 1787. The last state to be admitted to the Union was New Mexico in 1912.

These states vary in size from Rhode Island with 1,067 square miles of territory to Texas with 262,398 square miles. Thus the largest state in area is two hundred and fifty times larger than the smallest. They vary in population from Nevada with 910,588 people to New York with 12,588,066. Thus the largest state in population is

DO YOU KNOW—

1. *The increase in population in the United States since 1790? The increase in governmental functions? The increase in cost of governmental functions?*
2. *How the territory within the present boundaries of the United States was acquired?*
3. *The first state to ratify the federal Constitution?*
4. *The last state to be admitted to the Union?*
5. *Which state has the smallest area? The largest?*
6. *Which state has the smallest population? The largest?*
7. *How North Carolina ranks among the states in area? In population?*

POPULATION OF UNITED STATES
1790-1930

In 1790 there were nearly four million people in the United States. In 1930 there were nearly a hundred and twenty-three million. In 1935 there are around a hundred and thirty million. This means there are thirty-two times as many people in the United States today as there were a hundred and forty-five years ago.

INCREASE IN COST OF FEDERAL GOVERNMENT
From Seven Million to Seven Billion

In 1791 federal government activities cost $6,835,000. In 1934, according to the Bureau of Census, they cost $6,979,026,000. This means they cost over a thousand times more today than they cost a hundred and forty-three years ago.

DO YOU KNOW—

1. *How many people are of voting age in the United States? In North Carolina? In your own county? In your own town?*
2. *How many of these potential voters vote?*
3. *Why people must use the vote or lose it?*
4. *The pyramid of overlapping governmental units under which you live?*

thirteen times larger than the smallest.

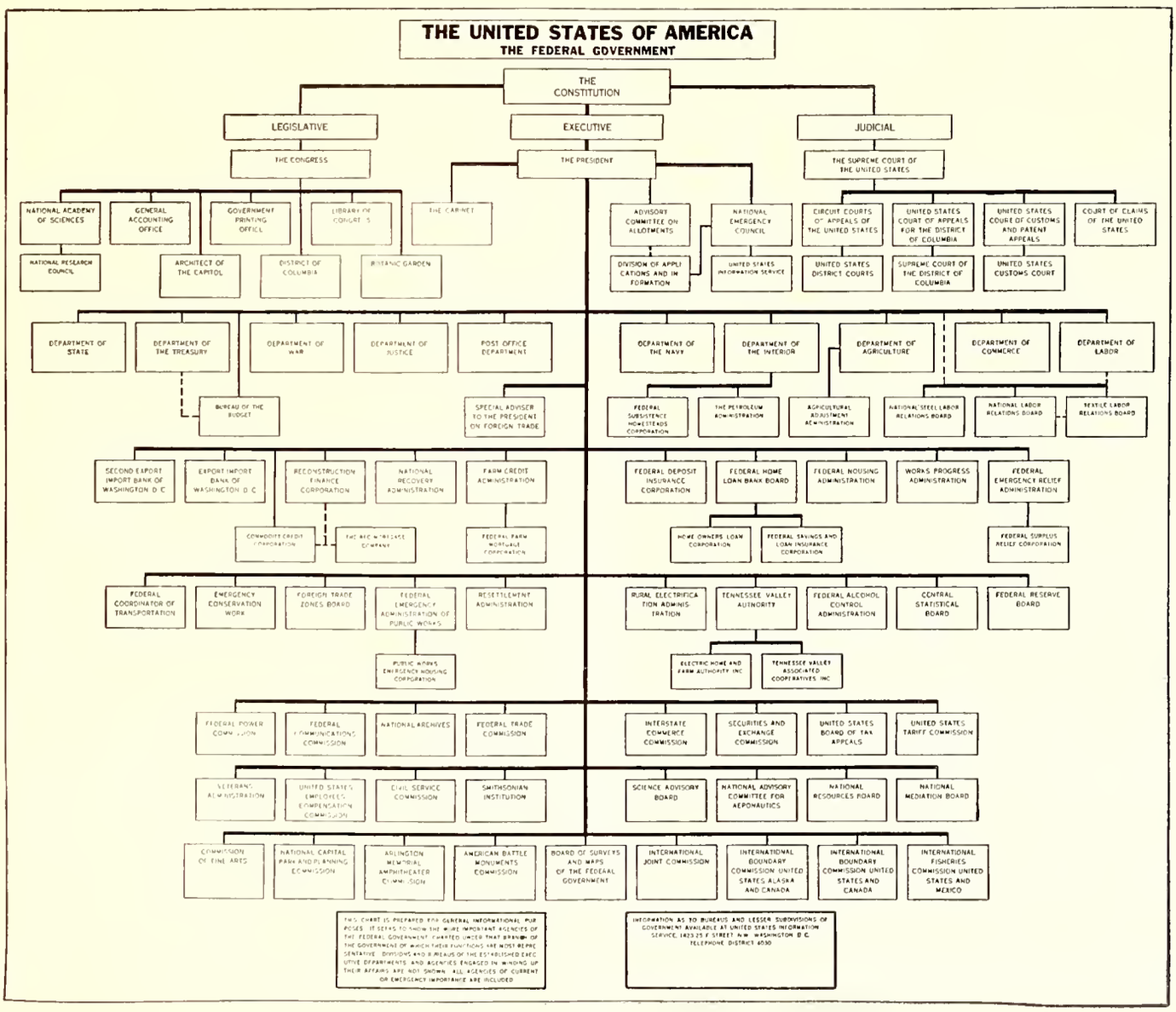
These boundary lines, areas and populations with their racial groups and economic conditions furnish many of the governmental problems perplexing the American people today.

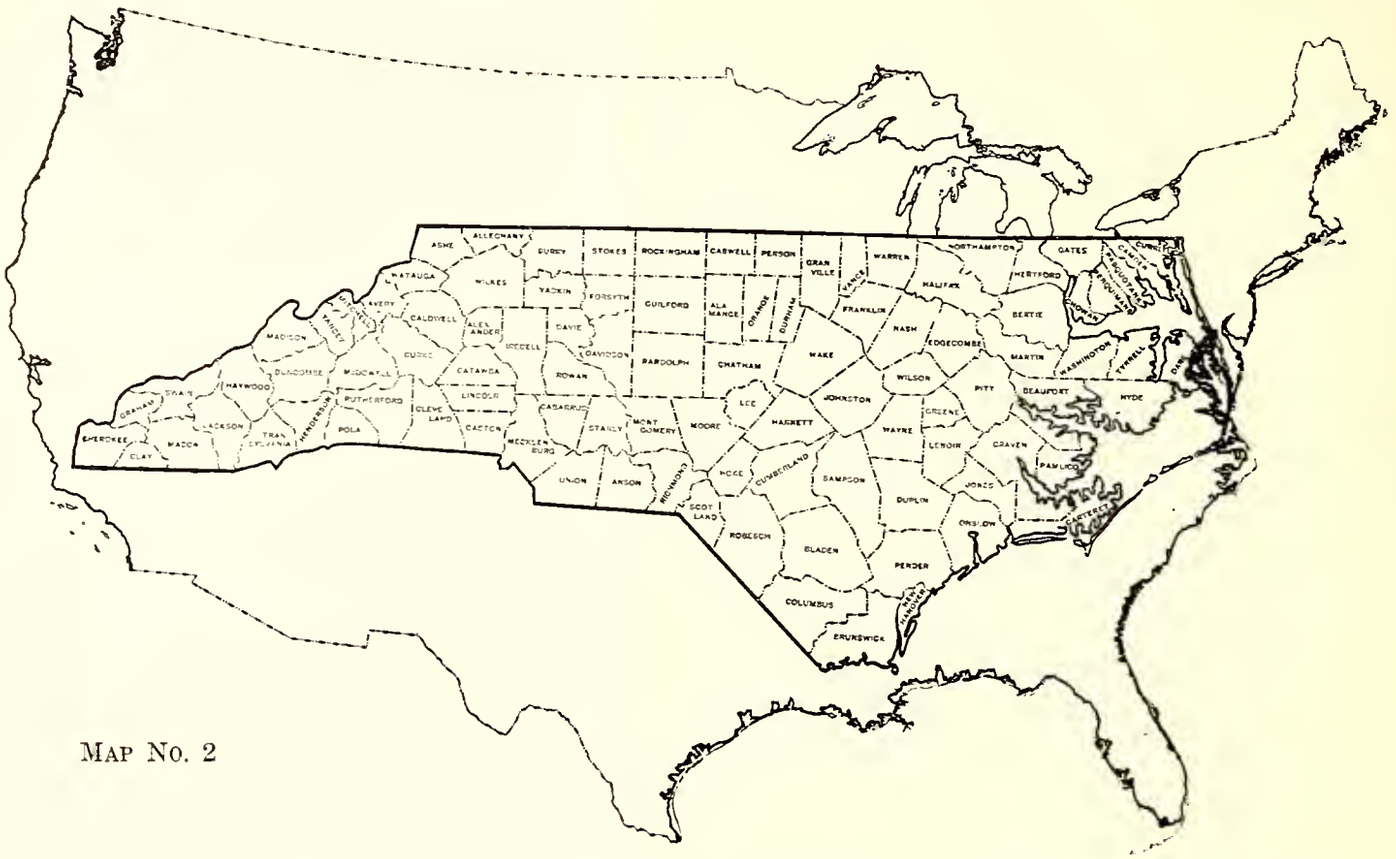
Expanding Functions

The years from 1789 to 1935 have witnessed a steady expansion of federal governmental functions. In 1789 the important departments of the federal government were: the State Department, Treasury Department and War Department. In 1798 was added the Navy Department; in 1829 the Post Office Department; in 1849 the Interior Department; in 1870 the Department of Justice (expanded from the Attorney General's office); in 1888 the Department of Agriculture; in 1903 the Department of Labor and Commerce (separate departments since 1913).

Along with this more than threefold increase in the major departments of the federal government went a still greater expansion of Commissions and Bureaus, such as the Civil Service Commission in 1883, the Interstate Commerce Commission in 1887, the Federal Reserve Board in 1913, the Federal Trade Commission in 1914, the Federal Power Commission in 1920, the Budget Bureau in 1921, and the staggering multiplicity of agencies created since 1933 to carry out the policies of the New Deal.

Through these agencies and activities the federal government has crossed the boundaries of states, counties, cities and towns and entered the homes of one hundred thirty million people today.





MAP NO. 2

NORTH CAROLINA

This map expands the territorial limits of North Carolina in relation to other states in order to indicate more clearly its subdivision into counties.

The present territorial boundaries of North Carolina were established between the years 1663 and 1821. By the Charter from the Crown in 1663 and the Concessions of 1665 the province of Carolina included the modern states of North Carolina, South Carolina, Georgia, Alabama, Mississippi, Tennessee, the northern portion of Florida and all of Louisiana east of the Mississippi.

The Virginia boundary was established by 1749; the South Carolina boundary by 1803; the Georgia Boundary by 1819; the Tennessee boundary by 1821; and the territorial limits of North Carolina were complete.

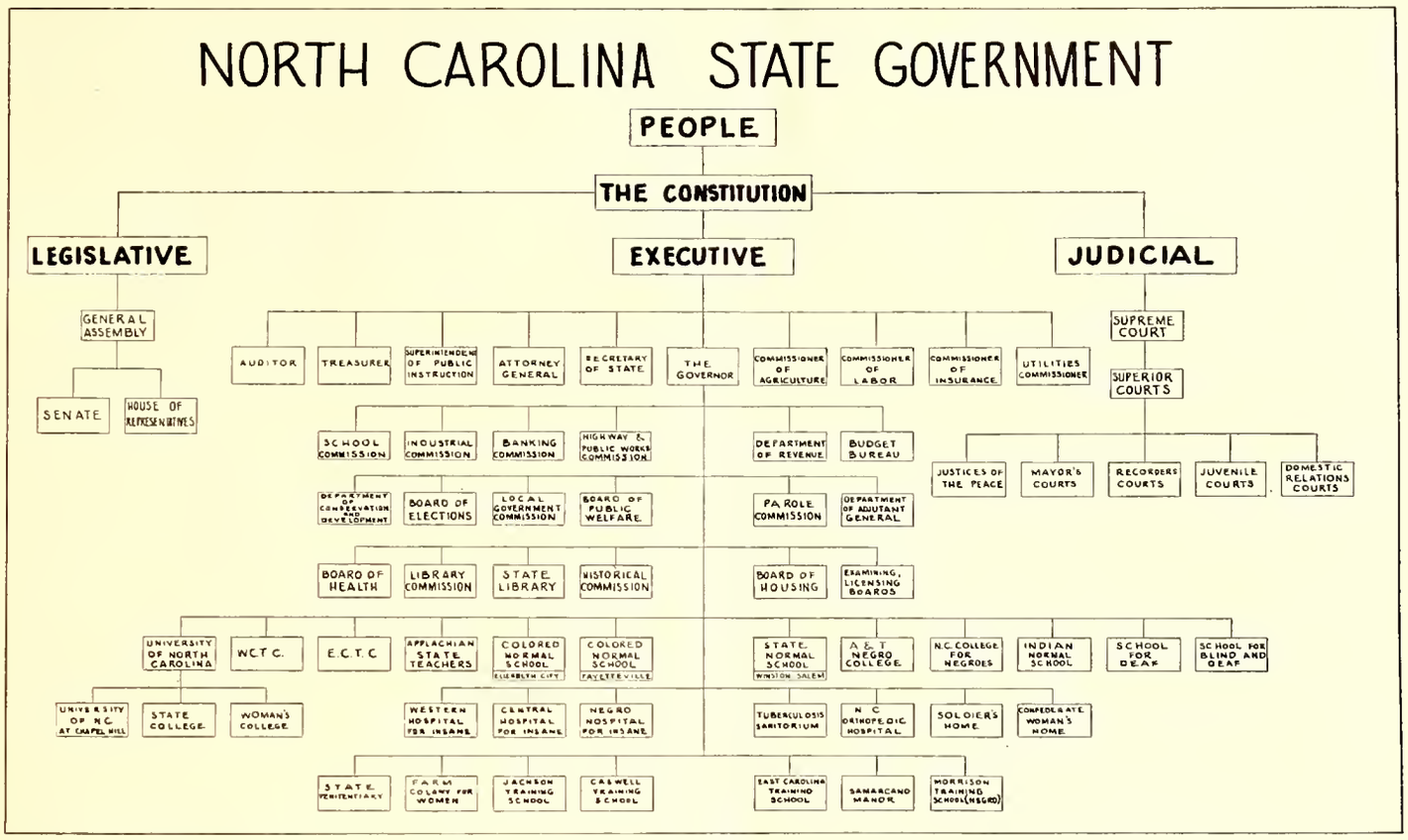
Thus with the State government overlapping the Federal government, we have two overlapping governmental units built on the same soil. The basis for the problems of State and Federal relationships is laid. Governmental complexities begin.

In 1776 North Carolina was a series of separate settlements, isolated from each other and from the outside world, made up of people who worked and lived at home.

The 1830's witnessed the chartering of railroads—lines of communication which furnished the landlocked inland farmers with an incentive to raise crops for foreign trade as well as for home consumption. The coming of the automobile initiated a program of road building—the State connected the one hundred county seats with hard surfaced highways and in 1933 extended its control over 58,000 miles of public road. The years around 1848 witnessed the beginning of telegraph lines, now expanded to thousands of miles in North Carolina. The years around 1879 witnessed the beginning of telephone lines, by 1932 expanded to 706,829 miles of wire, serving 143,710 telephones. The last decade has witnessed the beginnings of airplane routes across the State and the establishment of radio broadcasting stations whose waves filter through the air over every foot of North Carolina soil, and into the homes of nearly 72,000 families.

Today in North Carolina around 10,000 miles of surfaced highways connect with a national system of more than a quarter of a million miles of surfaced highway. Around 5,000 miles of railway connect with a national system of more than a quarter of a million miles of railway. Around 150,000 telephones may connect with the 17,000,000 telephones throughout the nation. Several hundred telegraph stations connect with 25,901 telegraph stations in all parts of the country. The airports of Raleigh, Greensboro, Charlotte, and Winston-Salem open the gates to 50,000 miles of air routes. Eight radio broadcasting stations and 72,000 radios connect with 615 broadcasting stations and 12,048,762 radios throughout the nation.

Through these avenues of communication and transportation the State of North Carolina is being more completely integrated with *other* states and *nations* today than the counties and cities *within* the state were integrated with *one another* fifty years ago. It took the grandparents of children now in school longer to go from Manteo to Murphy than it takes their grandchildren to go from Wilmington to San Francisco.



Expanding Functions

The multiplying business activities indicated in preceding paragraphs have resulted in multiplying governmental problems which have resulted in multiplying departments of state government. The accompanying chart does not undertake to indicate all these departments nor to list in detail all the agencies through which they operate. As a matter of convenience administrative agencies are charted under the Executive division rather than under the Legislative or Judicial Divisions. The principal departments indicated in the chart represent a tremendous expansion of state governmental functions from the simple beginnings outlined by the Constitution of 1776 which listed the Governor, the Attorney General, Secretary of State and Treasurer as the chief officials in the Executive Department.

The Commissioners of Agriculture, Labor, Insurance, Utilities, Banking, Highways, Local Government, represent the constantly extending participation in and supervision of activities affecting the life of the people.

The State Department of Public Instruction, the expanding public school system and a dozen or more institutions of higher learning indicate the extent of the state's entry into the field of education. The charitable institutions indicate the extent to which the state has begun to care for the sick in mind and body, the aged and the infirm. The penal institutions indicate the extent to which the state has added the reformatory and the training school to the penitentiary and the jail. Subsequent issues of POPULAR GOVERNMENT will outline the functions of these departments in detail.

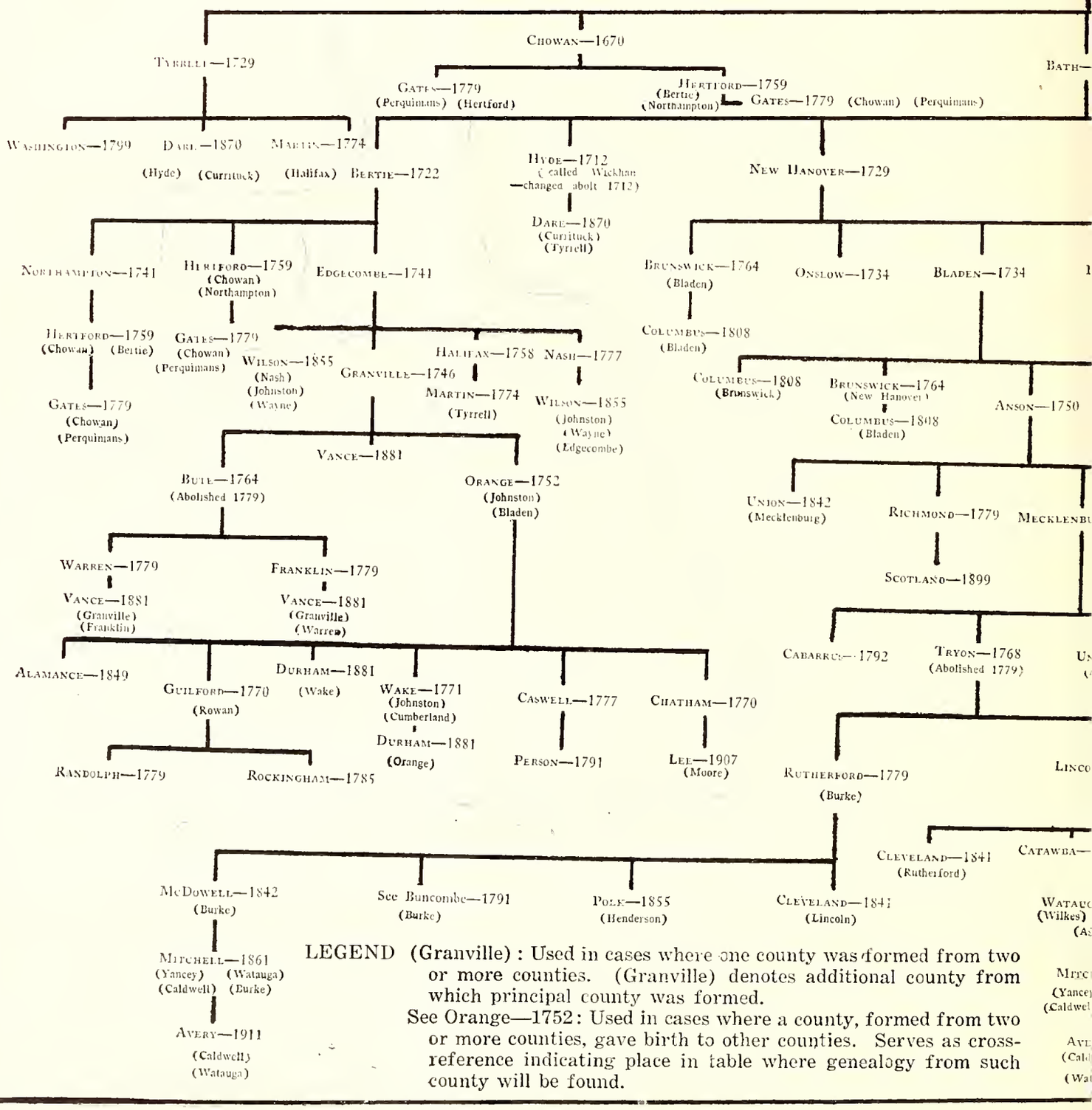
POPULATION OF NORTH CAROLINA
1790-1930

In 1790 there were nearly four hundred thousand people in North Carolina. In 1930 there were over three million. This means there are around seven times as many people in North Carolina today as there were a hundred and forty-five years ago.

COST OF STATE GOVERNMENT

In 1791 state government activities cost around $50,000. In 1935 they will cost over eleven hundred times more today than they cost a hundred and forty-four years ago.

North Carolina's "County Tree"



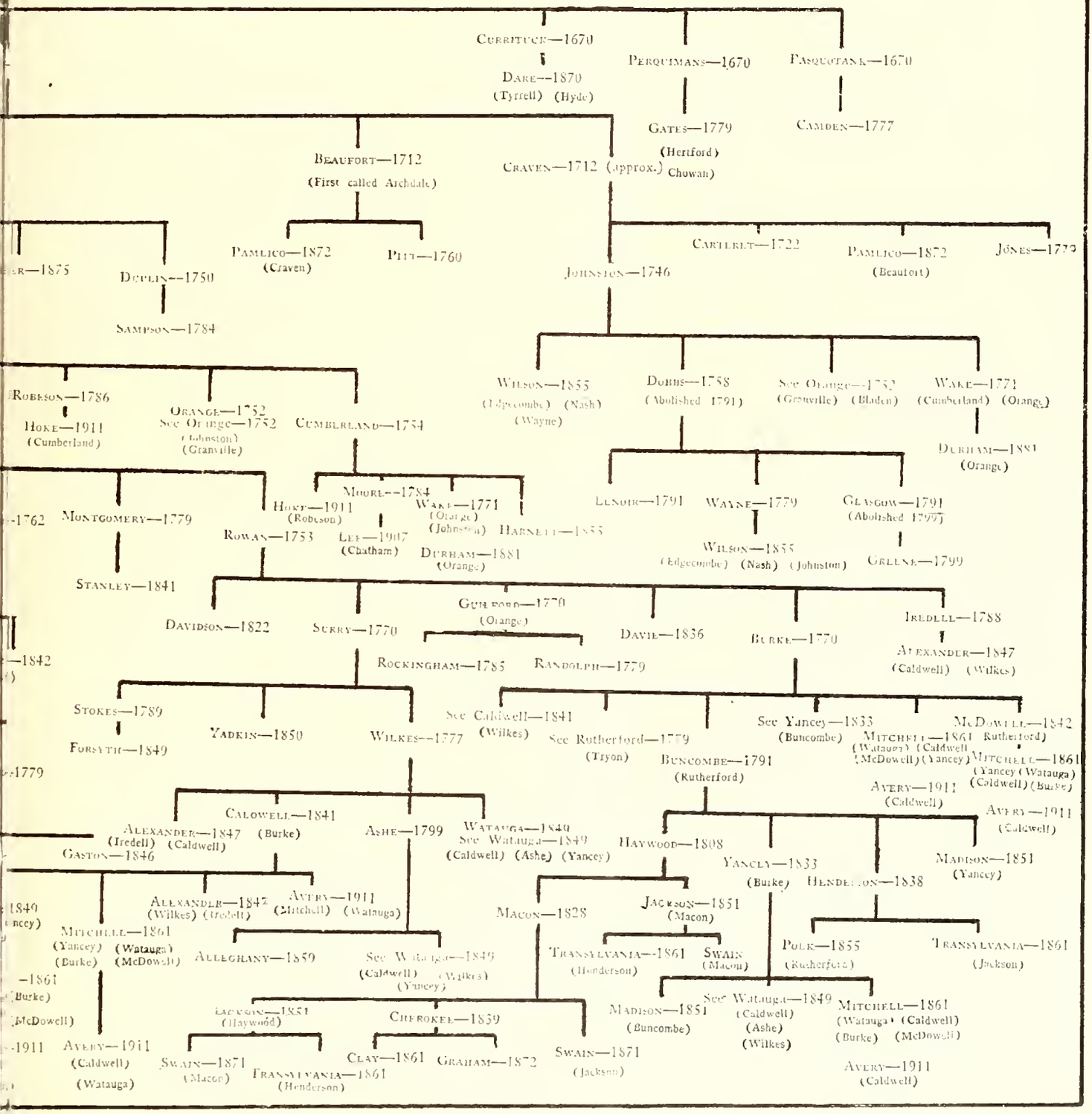
LEGEND (Granville): Used in cases where one county was formed from two or more counties. (Granville) denotes additional county from which principal county was formed.

See Orange—1752: Used in cases where a county, formed from two or more counties, gave birth to other counties. Serves as cross-reference indicating place in table where genealogy from such county will be found.

Old and distinguished families point with pride to their family trees, and the family of North Carolina counties is no exception. POPULAR GOVERNMENT presents herewith its genealogical table of North Carolina counties, beginning with Albemarle and ending with Avery and Hoke.

One of the few such tables ever worked out in this country, the North Carolina "County Tree" was constructed from information contained in the "Handbook of County Records," published by the State Historical Commission in 1925, and from additional information furnished by D. L. Corbitt of that organization's staff.

Care has been taken to make the table complete. Thus the reader will find included a few counties which have since been abolished. It is interesting to note that no present county bears the name of Albemarle, the mother of all the counties.



County Enters the Picture

Map No. 2 shows the one hundred counties in North Carolina today. Their dates of formation and the counties from which they were formed are indicated on the chart on pages 12-13. The first of these —Chowan, Currituck, Pasquotank and Perquimans—were formed in 1670. The last—Avery and Hoke —were formed in 1911. The State Legislature has the sole power to create, change or abolish county lines.

These counties vary in size from Chowan, the smallest, with 165 square miles to Bladen, the largest, with 976 square miles. Thus the largest county in area is nearly six times larger than the smallest. They vary in population from Tyrrell, the lowest, with 5,164 people to Guilford, the highest, with 133,010. Thus the largest county in population is nearly twenty-six times larger than the smallest.

With the county government overlapping the State and Federal governments the third overlapping governmental unit enters the picture. Governmental complexities increase.

Why Counties Were Formed

Three main reasons explain the introduction of the county as a unit of government in North Carolina: (1) *The colonists were accustomed to it* as the unit of government under which they had lived in England, and it was prescribed in the Charter from the Crown;

(2) *The practical administration of government*—the maintenance of law and order, the administration of justice in the courts, the registry of deeds, the payment of taxes for governmental services and the like made necessary the subdivision of the state into local governmental units with county seats in reach of the citizens;

(3) *Political considerations:* The Constitution of 1776 provided that each county should elect two representatives and one senator to the General Assembly. At that time the eastern part of the state was more populous than the west; there were more counties in the East and therefore more representatives of the East in the General Assembly. This arrangement worked well enough when it was made. But from 1790 to 1830 the population in the West increased from 159,752 to 374,092 while the population of the East increased from 234,297 to 363,896. This meant that the East with more Counties and less people elected more representatives to the General Assembly than the West with more people and less counties.

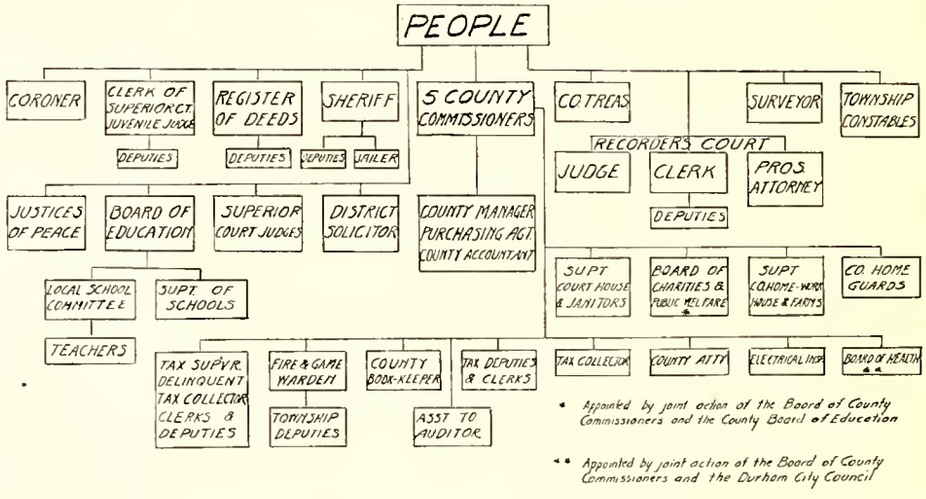
To illustrate: in 1820, twelve small counties in the East elected 36 members to the General Assembly, while two counties in the West, equal in area to the twelve in the East, elected only 6 members; in 1833 one set of counties containing one-half of the state population elected two-thirds of the General Assembly, while the other counties containing the other half of the state population elected only one-third of the General Assembly.

The West sought to form more counties in order to equalize representation in the General Assembly. The East, unwilling to lose its political supremacy, sought to organize a new eastern county for every new western county. Thus, from 1776 to 1833, eighteen new counties were organized in the West and during the same period fifteen new counties were organized in the East.

To secure in the General Assembly the Eastern votes necessary to establish new Western counties, the Western leaders resorted to all sorts of tactics—such, for example, as naming the proposed new Western counties after the Eastern leaders, as Burke, Caswell, Iredell, Ashe, Moore, and Macon, all of whom were active Eastern men.

The bitterness of the fight between the East and West for political supremacy and the importance attached to the formation of new counties is shown by the fact that Eastern representatives voting for new Western counties frequently failed of re-election. Every Eastern representative who voted for the formation of Davidson county in 1822 was defeated at the next election.

DURHAM COUNTY NORTH CAROLINA



Expanding Functions

The above chart indicates the organization of a typical county today.

When Durham County was formed in 1881 the principal county officers were: Commissioners, Clerk of Court, Sheriff, Register of Deeds, Treasurer, Coroner and Surveyor. Succeeding years have witnessed a steady expansion of county functions. Specific examples follow.

In 1901 a voluntary Board of Associated Charities was organized; in 1917 a part time paid worker was employed by the county; in 1919 the Board was changed to the present Board of Charities and Public Welfare; in 1920 the first full time welfare worker was employed, and in succeeding years the staff was expanded to a Superintendent of Public Welfare and ten full time assistants.

The County Board of Health, created in 1913, has expanded from a single health officer to a highly trained staff of doctors, nurses,

dentists, bacteriologists, veterinarians, and sanitary inspectors.

In 1909 a Recorder's Court for the trial of minor criminal offenses was created in the city of Durham and later expanded to serve the entire county.

In 1910 a bookkeeper was added to the County offices, in 1923 a game warden, who also took on the duties of a fire warden in 1931, and in 1929 an electrical inspector.

In 1927 a Tax Supervisor was appointed, and in 1930 the duties of collecting taxes were taken from the Sheriff and given to a Tax Collector and a Delinquent Tax Collector was appointed.

In 1930 the office of County Manager was created, and in 1931 he assumed the duties of auditor and purchasing agent.

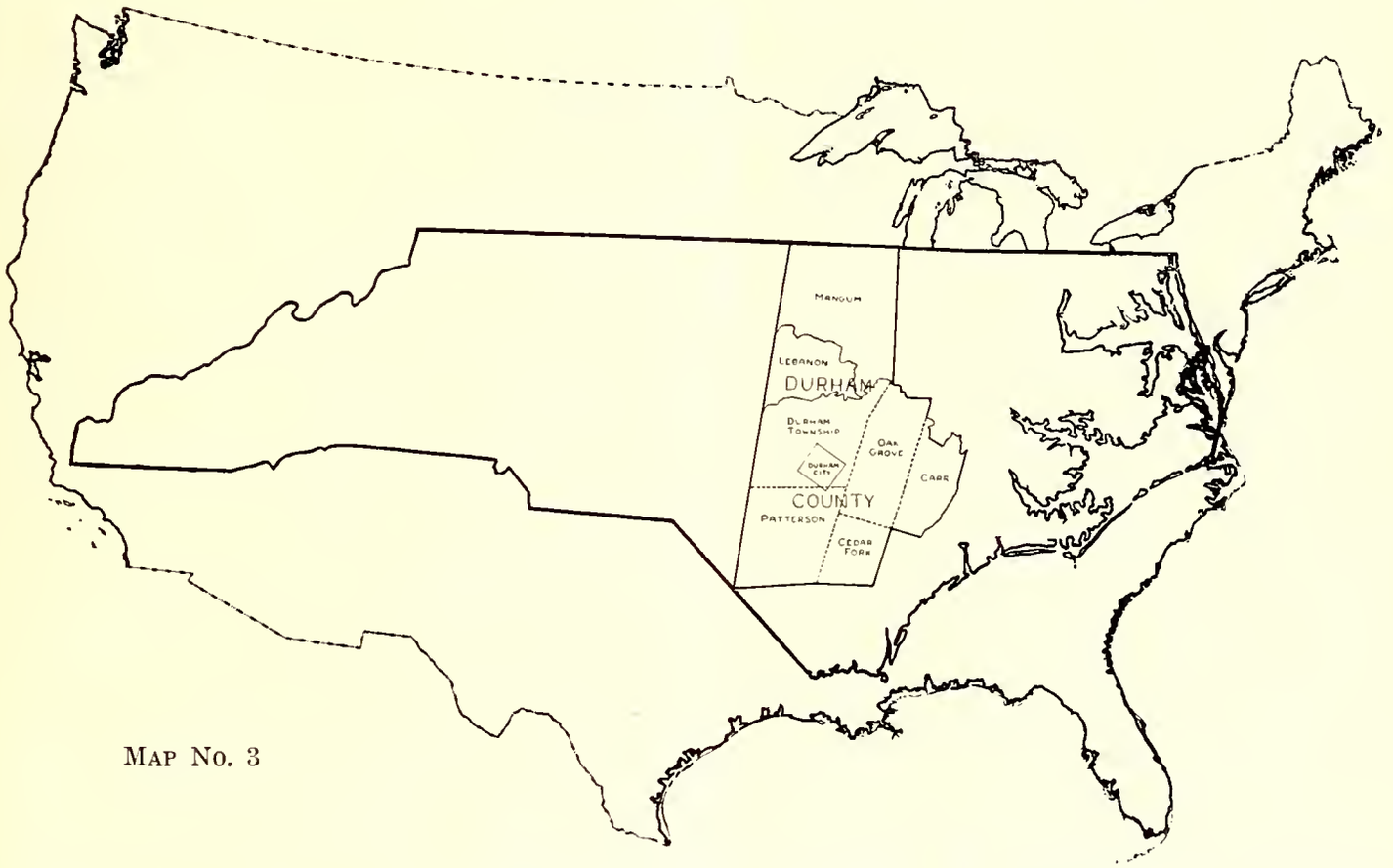
A detailed analysis of County functions will appear in succeeding issues of POPULAR GOVERNMENT.

In 1890, nine years after its formation there were around eighteen thousand people in Durham County. In 1930 there were over sixty-seven thousand. This means that there are nearly four times as many people in Durham County today as there were fifty-five years ago.

In 1884-5, Durham County governmental activities cost around $9,312. In 1934 they cost $485,388. This means they cost over fifty-two times more today than they cost fifty years ago.

DO YOU KNOW—

1. *The cost of your county government the year it was formed? In 1934?*
2. *The names of your county commissioners? The number of county officials and employees? The principal county offices and who holds them?*
3. *The effect of the highway, railway, airway, telegraph, telephone and radio on your governmental structure?*
4. *Your county government well enough to draw a chart of its organization and functions?*



MAP NO. 3

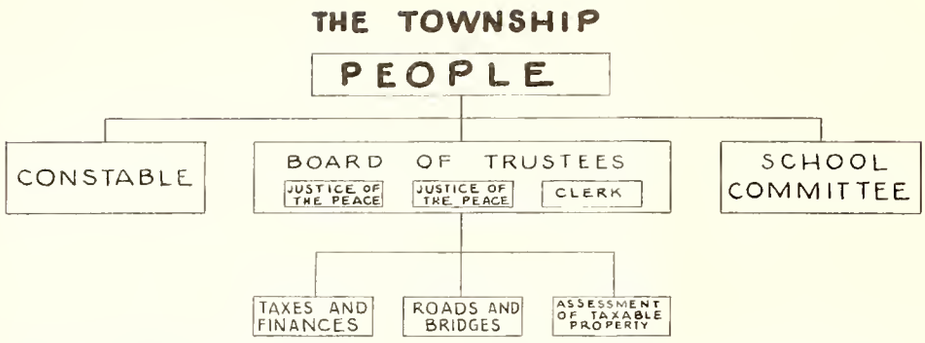
The Township Holdover

The Constitution of 1868 brought the township into the governmental structure by authorizing the County Commissioners to divide their respective counties into convenient districts to be known as townships. In Map No. 3 Durham County is expanded in relation to other counties in order to show township lines. The number of townships in the state have varied from one thousand to fifteen hundred. The above map indicates the townships and township organization of Durham County. These townships vary in size from Cedar Fork with 19.96 square miles to Mangum with 70.51 square miles.

With the township government overlapping the County, State and Federal governments, the fourth overlapping governmental unit appears. Governmental complexities continue to increase.

DO YOU KNOW—

1. *The number of townships in your county? Their names? When they were formed and why? The functions they performed at their start? Today? Your township officials?*



Deprived of Many Functions

The accompanying chart indicates the original governmental organization of the township. It was administered by a Board of Trustees, consisting of two Justices of the Peace and one Clerk, elected by the township voters. The Board of Trustees had the following powers and duties: (1) control of taxes and finances; (2) control of road and bridges in township; (3) assessment of taxable property of township and report to County Commissioners.

This plan of organization proved unsatisfactory, and beginning with 1876 the township was gradually deprived of its functions until today it is little more than a perfunctory unit of government.

Property is listed for county taxes by townships. Each township has at least one tax lister and tax books are kept by townships. In a few instances townships still have school and road bonds outstanding against them. In cases in which the counties have not taken over these old debts, the county commissioners continue to levy special township taxes to pay them. It is also recognized as a unit for the election of Constables and Justices of the Peace.

Cities and Towns

There are around 500 cities, towns, and villages in North Carolina today. The first town to be incorporated was Bath, in 1705. According to the office of the Secretary of State, the last was Arlington, incorporated in July, 1930. According to the 1930 census, the smallest is Dellview with a population of 10. The largest is Charlotte with a population of 82,675.

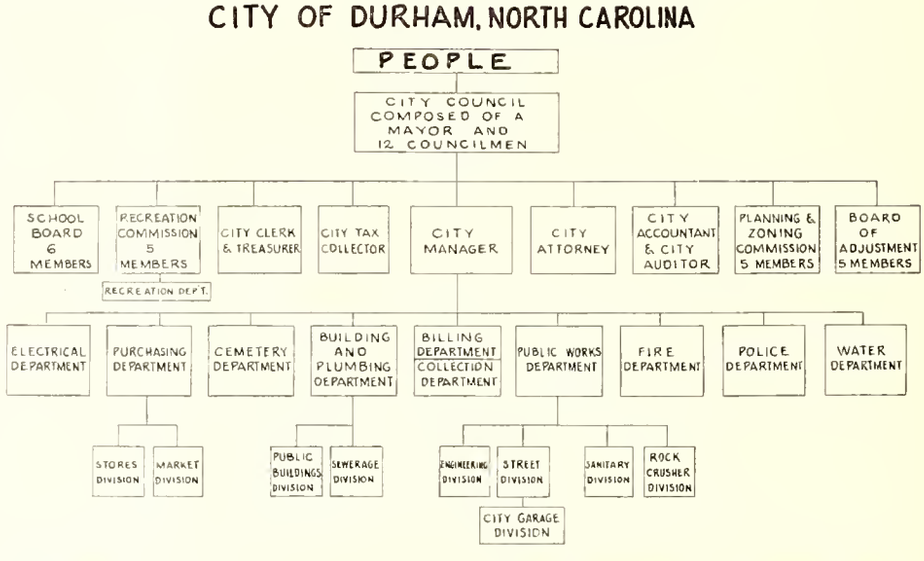
Some of these cities and towns, such as Asheville, fall within the limits of a single township. Others, as Greensboro, overlap township lines. Others, as Rocky Mount, overlap county lines.

The urban population of North Carolina in 1930 was 809,847. The rural population was 2,360,429. Thus the urban population was 25.5 per cent of total population and the rural 74.5 per cent.

With the city government overlapping the township, county, state and federal governments, the fifth overlapping governmental unit appears. Governmental complexities still continue to increase.

From colonial days to 1917, cities and towns were chartered by special act of the General Assembly. In 1917 the General Assembly provided that cities and towns could be created by General Laws through the following procedure: Any group of fifty citizens or more, at least twenty-five of whom must own real property, 25 of whom must be qualified voters, and representing an area containing property of a minimum assessed value of $25,000 must apply to the Municipal Control Board —through the Secretary of State. This Board grants a charter of incorporation.

The concentration of many people in small areas creates conditions and problems which widely scattered people do not have. The farmer who lives half a mile from his nearest neighbor is not so likely to be affected by what his neighbor does as the city dweller who lives within a few feet of his neighbor on a crowded city block. Multiplying contacts create multiplying governmental problems which rural areas do not have: to maintain law and order requires special police protection and courts for the settlement of disputes; to maintain public health requires special measures of sanitation and safeguards against the spread of disease; to protect buildings from loss by fire requires special precautions against the spread of fire; to provide for city traffic requires special attention to streets and rules of traffic. These are illustrations of some of the principal reasons for the incorporation of cities and towns.



Expanding Functions

Map 3 indicates the location of the City of Durham in Durham County. The above chart indicates the organization of a typical city.

The incorporation of the city of Durham was authorized in 1869 with a Magistrate of Police (later

DO YOU KNOW—

1. *The names of your city officials? The governmental services your city performs? what these services cost in 1934? How to draw a diagram of your city organization and functions?*
2. *The number of cities and towns in North Carolina today? When the first was formed? The last?*
3. *The number of cities and towns in your county? The largest? Smallest? Oldest? Youngest? How they were formed and why?*

changed to Mayor) and five commissioners as the chief officials. These officials appointed the constable (changed to Chief of Police in 1881), the Treasurer, and the Overseer of Streets (expanded into the street department in 1883). In 1875 was added the City Tax Collector; in 1882 the Fire and Health Departments; in 1909 the Recorder's Court; in 1917 the Water Commission; in 1921 the City Manager and the Department of Public Works. Thus by gradual steps its activities and functions have expanded into the complex organization represented by the above chart today.

In 1869 there were around two hundred people in the city of Durham. In 1930 there were 52,037. This means there are around two hundred and sixty times as many people in Durham today as there were sixty-six years ago.

In 1869 Durham's governmental activities cost $357.44. In 1934 they cost $2,012,192. This means they cost over fifty-six hundred times as much today as they cost sixty-six years ago.

DO YOU KNOW—

1. *The number of special districts in which you live? When they were formed? Why? What purpose they serve?*

The Special District

Frequently, none of the governmental units we have already described — neither federal, state, county, town, nor township—would serve all needs of all people. The citizens of a particular area might desire a new school building or better roads or some other improvement which no existing governmental unit could or would supply. In order to levy taxes on themselves and thus raise money or else issue bonds so as to borrow money to finance such enterprises, interested citizens could secure the incorporation of a particular area into a special district. An election by the people of the proposed special district was necessary in order to create it, to authorize taxes, and to issue bonds.

In order to be sure of carrying the elections for special taxes or bond issues these districts were often laid out so as to guarantee a favorable majority. This meant that the boundary lines took curious shapes in order to include some people and exclude others. Most of these special school districts are losing their identity in the state school system, as are the special road districts in the state highway system. Their separate existence is retained only for paying bonded indebtedness.

Where the special district overlaps the town, township, county, state and federal governments, the sixth overlapping governmental unit appears. Sometimes special districts overlap each other and the number of overlapping governmental units increases accordingly. And thus we complete the pyramid of overlapping governmental units.

Succeeding issues of POPULAR GOVERNMENT will pick up the thread of the story at this point and analyze in some detail the principal governmental functions performed by these overlapping governmental units.

We See by the Headlines

Elections for a ninth month of school carry in Asheville and Morganton, fail in Kinston.

* * *

R.E.A. to make one more survey of potential rural electric power lines in State. Individuals and communities invited to write David S. Weaver, engineer, State College. Meanwhile, first project is completed (Orange County), and Weaver announces 22,600 prospective customers in 686 communities have expressed desire to secure power.

* * *

Seeking protection of creditors while bond refunding plan is being worked out, Benson becomes first town to take advantage of new Federal Bankruptcy Act for municipalities.

* * *

State School Commission sets up own, continuous audit and control of expenditures of all school funds. Estimated by Leroy Martin to save State $100,000 a year.

* * *

Yearly profit of $40,000 expected, according to supervisor of A.B.C. whiskey stores in Beaufort County.

Teachers of State will receive 20 per cent increase for full eight months term and not for seven months, as originally thought, State Board of Education decides.

* * *

Cumberland County commissioners vote to assume bonded indebtedness of all special school districts except township in which Fayetteville is located.

* * *

Textbook rental plan goes into effect. Rent fixed at one third of retail price. Secretary Peeler estimates 70 per cent of State's schools taking part.

* * *

Large, new appropriation made from Work Relief funds for volunteer debt adjustment committees. Mask says committees now functioning in 87 North Carolina counties, and plans under way to organize committees in other 13 counties.

* * *

Committee picks site near Black Mountain for new Western North Carolina Sanatorium, provided for by 1935 Assembly.

The Public Pulse — —

as felt by the State's Press

Highway Safety

"The reckless driver, like the habitual criminal, can't win. . . . Reckless driving is an unbeatable game, at which the player loses and which likewise penalizes and robs the innocent."—Gates County *Index.*

"According to an advertisement of a large life insurance company, the driver of every 20th car will kill some man, woman, or child before the year is over—if the accident experience of 1935 duplicates that of 1934. . . . Are you going to be the 20th driver?"—Greenville *Reflector.*

"Perhaps the new driver's license law and the expanded highway patrol will make the streets and highways safer; but they won't accomplish much in that direction unless the police and the courts and drivers and pedestrians do their part."—Chapel Hill *Weekly.*

". . . the only way we Tar Heels can make our roads safe is to exercise vigilance, drive carefully, and demand that our law-enforcement officers crack down on traffic violators to the limit, regardless of the position or wealth of the offender. It is still up to us."—Hickory *Record.*

Taxation

"The purchaser of a loaf of bread . . . pays 17 kinds of taxes. . . ." He wears "shoes which are taxed 23 times. If he rides in an automobile, he is paying 42 different kinds of taxes. . . .

"All of these taxes, obviously, are indirect, and very few of us know that we pay them. . . . 'Tax ignorance is the crowning element in mass ignorance today.'

"We will have tax reduction when we spend less tax money, and not until then. Only massed public opinion, backed up by knowledge of the facts, can bring it about."—Greenville *Piedmont.*

"When the State of North Carolina levies a sales tax it not only disregards the just taxation principle of 'ability to pay,' but forces the consumer—rich and poor—to pay double."—Winston-Salem *Journal.*

"It is estimated that about 80 per cent of the normal taxes due the county are collected. This means that 80 per cent of the people are carrying the tax burden of the county. It is not right, it is not just or fair that such a condition be allowed to continue. The prompt and willing taxpayer should not be penalized in favor of the dead-beat, sometimes honored by the term of 'delinquent.' "—Cherryville *Eagle.*

"The action of City Council in purchasing 77 pieces of property in the incorporated limits from Guilford County because of tax delinquencies is . . . a good business move on the part of our Council.

"Some of the property is not worth city and county tax delinquencies, but there are many lots worth more than this amount. A fair profit on the more valuable plots should make up for the losses. Not only does the city save its taxes, but it prevents a foreclosure war with the county."—High Point *Enterprise.*

Local Government

"Time and again in the interest of economy in government, abolition of many of the needless counties in the several states is proposed. There are more than 3,000 counties in the 48 States. . . . Of these 1,500 are found in the South—one half of all in the nation. The average population of a southern county is 26,000, while the average for other sections is 52,000.

"Upon such a basis it is easy to reckon that the per capita cost of government in the South is relatively and decidedly higher than in other sections." — Hendersonville *Times.*

"Rutherford county has had six different chairmen of the Board of County Commissioners in the past 12 years. We have had a new member of the Legislature every term, for sometime. These changes have cost the taxpayers money. Those who hold these responsible positions learn mostly by doing. . . . Experienced men are the ones that count. . . ."—Rutherford County *News.*

"OF THEE I SING"

"North Carolinians who complain of being 'taxed to death' will find some small consolation in the fact that they are not residents of Oklahoma City, where 'parking meters' have just been introduced. . . .

"The streets, of course, were paid for with taxes. The Oklahoma City council entered into a contract with the inventor of the meters, and that payment will also come from taxes, probably from the money deposited in the meters.

"Sweet land of liberty."—High Point Enterprise.

As the result of a significant drive by the State Health Department this summer, more than 200 North Carolina cities and towns are going forward with plans, many of them under the P.W.A. and W.P.A., for new water and sewer systems or for needed extensions to existing lines. Much of the credit for the program, which is hailed as one of the biggest forward moves North Carolina has taken in public health, belongs to Warren H. Booker (above), Director of the Division of Sanitary Engineering and super-health-salesman.

MAN IN THE HOUSE!

(Continued from page 5)

In another town last month a colored "informer" called in to the police department and told them that two Negro men had dropped by his home with a bunch of clothing they were trying to sell. The call was broadcast to the plainclothes car. In less than ten minutes the two clothes peddlers were thinking things over in a cell of the city jail. Under the old system the patrol cars would not have become acquainted with the facts in the case until they reported in to headquarters at the end of every half hour; and no officer could have reached the address in less than ten or fifteen minutes.

On April 4, of this year, at 1:15 o'clock in the morning a call was received and broadcast to a patrol car that two men were breaking into a store. Within three minutes the car reported back that the two men had been arrested with several hundred dollars worth of stolen property.

Some months ago a notorious criminal who had escaped from the Eastern part of the State was traced to a North Carolina town by an informer. The informer located the escaped prisoner and came around to police headquarters, giving the information that the criminal was in one of two houses in a thickly populated area of the city. Immediately the desk sergeant turned to the radio and called, "Police Radio Station W4XW calling cars two, three, and four. Go immediately to the intersections of Commerce and Park Streets. Upon arriving there, cars two and three proceed to the following addresses: 315 and 317 Park Street. Car four proceed to the rear of these addresses. Arrest John Doe, escaped prisoner, age 25, five feet nine inches tall, weight 170 pounds, blonde hair and blue eyes, mole on left cheek." To the surprise of the informer, in less than five minutes the escaped convict was being marched into the police station.

Before radio was installed this city used a red light located on top of a building.

The above are examples which could be multiplied by the hundreds. The police radio has meant the difference between arriving on the scene within two or three minutes and the arriving on the scene in ten or twenty minutes; the time element frequently represents the difference between making an arrest and having the offender escape.

The installation of the State radio system will mean that an operator may sit in one of the district stations and communicate instantly with both Patrol vehicles and local police departments throughout the State. The most significant feature of the system will be its adaptability to the needs of all the city and county law enforcement agencies for quick police communication. The roads of the State and the streets of the cities will become more hazardous for the criminals who wish to use them as avenues of escape.

In place of the beam of light from the top of a standpipe or tall building, calling the officers to drive by headquarters, will come the radio waves, traveling with the speed of light, to direct the officers in their warfare with the criminals.

87% of Our Impressions Are Received Through the Eyes

Our progress, safety, and happiness as individuals depend to a very large extent upon our ability to see. Poor lighting acts as a partial blindfold, handicapping the process of seeing. Good lighting sharpens our vision and speeds sight.

In the home, school, store or factory good lighting is a paramount necessity if eyesight is to be conserved and human welfare is to be improved. Good lighting, now lower in cost than ever before in history, is far less expensive than the toll exacted by poor lighting and strained eyes, wasted nervous energy, and poor health.

The record of eye defects shows that impaired vision becomes more prevalent as the eyes are called upon to do closer work over a longer period of time. Only five per cent of the beginners in school have defective vision, yet 20 per cent of high school graduates are thus afflicted. Among college students—young people who are applying their eyes to longer and more severe visual application—40 per cent are handicapped with subnormal eyes.

Young and old eyes alike can be preserved and aided by better lighting as provided by the I.E.S. reading and study lamp. Designed by the Illuminating Engineering Society and tested by the Electrical Testing Laboratories, this lamp assures adequate illumination for safe and easy seeing.

BETTER LIGHT---BETTER SIGHT

Duke Power Company

CHARLOTTE, N. C.

Bulletin Service

Opinions and rulings in this issue are from State Department letters from July 20th to September 1st

★

Prepared by
M. R. ALEXANDER

I. Ad valorem taxes.

A. Matters relating to tax listing and assessing.

10. Exemptions—municipal bonds and property.

To J. C. Stancil. Inquiry: Are the bonds of a municipality exempt from taxation by another county? (A.G.) Yes. The 1935 Machinery Act carries forward this provision.

To Archie Allen. Inquiry: Is a town entitled to a refund of tax on gasoline used in a tractor employed in street improvement?

(A.G.) No. The gasoline tax law specifically taxes the gas used in motor vehicles which are operated on the *streets and highways* of the State.

17. Abolition of corporate excess tax.

To Geo. E. Welch. Inquiry: Since the corporate excess tax has been abolished, does the Tax Supervisor have the authority to raise the valuation on real or personal property of corporations which formerly paid such tax and where the amount listed by these corporations for 1935 does not equal the capital stock and surplus.

(A.G.) The abolition of the corporate excess tax does not justify any increase in the ad valorem tax on a corporation.

69. Proceeds of life insurance policies retained by company.

To Vernon W. Flynt. Inquiry: Is the face value of a life insurance policy subject to ad valorem taxation when the beneficiary is receiving a stipulated sum monthly, semi-annually, or annually and the policy provides that the beneficiary may not withdraw the principal amount of the policy?

(A.G.) While the Machinery Act taxes annuities, this office has not, in the past, classified the form of income from insurance policies of this type as annuities. We advise, therefore, that in our opinion this form of property is not subject to ad valorem taxation.

71. Solvent credits—taxability of bank deposits and postal savings.

To J. W. Ward. Inquiry: What is the legal procedure for putting money, deposited in banks and not listed by the depositors, on the tax books?

(A.G.) If you have reason to believe that certain taxpayers have not listed their bank deposits, you may call such taxpayers before your board for an examination. You do not have the right to go to the bank and demand this information, but you do have the right to summons the bank officials at the inquiry to determine whether or not such taxpayer had listed funds in the bank for ad valorem taxation. If it is found that the taxpayer does have money in banks which he has not listed, he will be subject to indictment.

91. Reduction—in case of mortgage.

To W. F. Carter. (A.G.) Before one may take advantage of the provisions of Article V, Section 3, N. C. Constitution, relating to exemption from taxation of 50 per cent of the value of the outstanding indebtedness against property, it must be shown that the following conditions are present:

1. The indebtedness must have been incurred in building, repairing or purchasing the property. 2. The indebtedness must not exceed $8,000. 3. The indebtedness must run for not less than one nor more than 33 years. 4. The holder of the note evidencing the debt must reside in the county where the land lies and there list it for taxation. 5. The property must be used as a dwelling place by the taxpayer, that is, it must be occupied by the taxpayer as his or her home.

If all of the above conditions are present, it would seem that the property would be entitled to this exemption.

B. Matters affecting tax collection.

19. Delinquent taxes—time for sale and settlement, 1932 taxes.

To J. H. Sample. Inquiry: What is the proper time to bring foreclosure proceedings on 1932 taxes? Chapter 75, Public Laws of 1935, set the time at December 1, 1935, but this county was exempted from this act unless approved by the county commissioners, which has not been done. Chapter 412, Public Local Laws of 1935, extended the time for the institution of suits in this county until April 1, 1936. Is this act in violation of Article 2, Section 29, N. C. Constitution?

(A.G.) Your county being exempted from the provisions of Chapter 75, Public Laws of 1935, and the Board of County Commissioners not having approved its provisions in accordance with the terms of Section 2, it would be necessary to institute foreclosure proceedings on 1932 taxes within 24 months from the date on the certificates of sale.

21. Delinquent taxes—time for sale and settlement, 1934 taxes.

To F. R. Shuford. Inquiry: 1. What is the time under the new act for a municipality to advertise and sell property for 1934 taxes? 2. If the municipality purchases property sold in a tax foreclosure proceeding, is it required to pay the State and County tax?

(A.G.) 1. Ordinarily a municipality is required to advertise delinquent taxes during the month of May and to sell the same on the second Monday in June. However, the General Assembly of 1935, insofar as taxes levied in the years 1934 and 1935 are concerned, extended the time of advertising to the month of August and the time of sale to the second Monday in September.

2. Yes. All the taxes due the State and County at the time the deed is made. If the conveyance was made subsequent to July 1, it would be necessary to pay the taxes for the fiscal year commencing July 1. On the other hand, if the municipality owned the property prior to July 1, it would not be subject to taxation by the State or County for that fiscal year.

31. Tax foreclosure—procedural aspects.

To R. B. Mallard. (A.G.) The statute does not specify that a tax foreclosure suit once begun shall be terminated at a given time. Judgment may be taken any time after the 30 days. After final judgment ordering sale of land, the sale should take place within a reasonable time, but there is no limit specified by law.

To Luther T. Rose. Inquiry: Which is the better procedure in foreclosing tax sales certificates for different years against the same property—to bring a separate suit on each certificate or to join all in one cause of action?

(A.G.) Under C. S. 8037 and amendments each certificate constitutes a cause of action upon which foreclosure proceedings may be brought. In my judgment the better practice is to bring suit naming each tax sales certificate and sue upon them all.

It is true that foreclosure might be had upon any one of the certificates and the town or purchaser might bid enough to cover all the taxes due. However, this would leave the matter open to controversy as to whether the taxes were actually due for the other years or whether the town had the right to enforce them.

So many laws have been passed regarding tax sales certificates for the years 1928-32, the safest plan is to sue on the tax sales certificate of every year.

To C. F. Woodward. Inquiry: In a municipality other than the county seat, does the law require the sale of real estate for 1934 taxes to be made at the court house, or is it sufficient to hold the sale at the door of the town clerk's office?

(A.G.) A sale at the door of the town clerk's office will meet the requirements of the law.

To W. P. Kelly. Inquiry: A taxpayer deeds property to another person but continues to list the taxes in his own name. Should the new owner be made a party defendant in tax foreclosure proceedings?

(A.G.) Section 8037, C. S., provides that the person in whose name real estate has been listed, together with his wife or husband, shall be made defendants. However, if at the time the proceeding is instituted the public records disclose that title to the property has changed hands since it was listed for taxation, in my opinion the owner of record should be made a party to the proceedings along with the party in whose name it was listed. See Beaufort County vs. Mayo, 207 N. C. 211.

45. Tax foreclosure—distribution of surplus.

To L. T. Hammond. Inquiry: In tax foreclosure proceedings, how is the surplus applied after costs and taxes for the year in question have been satisfied?

(A.G.) Such surplus should be applied first to the discharge of *any and all* taxes due on the property at the time of sale (distributed pro rata if insufficient to pay all taxes); secondly, to satisfying any encumbrances on record against the property; and thirdly, to the owner of the property.

61. Tax collection—attachment of rents.

To Lacy M. Early. Inquiry: Is there any authority permitting a tax collector to levy on rents paid by a tenant for past due taxes on the property. (A.G.) We think this entirely proper.

65. Tax collection—garnishment.

To Geo. L. Cannady. Inquiry: Is it legal to garnishee State employees for 1934 county taxes? (A.G.) Chapter 112, Public Laws 1935, provides that proceedings may be had against any agent or officer of the State for moneys in their hands by way of garnishment for the collection of unpaid taxes in the same way and manner formerly provided by law for the garnishment of private persons.

73. Tax collection—levy on personal property after levy on real property.

To J. D. Grimes. Inquiry: May the Sheriff resort to the personal property of a taxpayer to collect taxes due on real property after the property has been sold, tax certificates issued, and judgments rendered on the certificates?

(A.G.) Resort cannot be had to personalty after the real property has been sold, unless after applying all the proceeds of such sale, there remains a balance of tax unpaid. The Statute, C. S. 8006, of course, requires personalty to be first exhausted for the payment of taxes, but we find that this Statute is usually neglected.

C. Levy of special taxes.

10. For repair to public buildings.

To Henry Fisher. (A.G.) Subsection 8½, Section 1297, C. S., permits the Board of Commissioners to levy a special tax not to exceed 5c on the $100 value of property for certain purposes, included in which is the upkeep of county buildings. In my opinion, under this subsection, county commissioners may allocate the entire 5c so levied to this purpose. Such levy is in addition to the 15c levy permitted for general fund purposes under Article V, Section 6, N. C. Constitution.

Subsection 28, Section 1297, C. S., as well as Section 1335, C. S., authorizes the county commissioners to levy a tax for the maintenance, comfort, and well ordering of the poor of the county. It has also been held by this Department that the tax levied under authority of these sections is in addition to and need not be included in the 15c limitation. Under these sections there seems to be no limitation as to the amount of the tax which may be levied, the question of the amount being vested in the judgment and discretion of the county commissioners.

II. Poll taxes and dog taxes.

B. Collection of poll taxes.

9. Garnishment.

To J. M. Aldridge. Inquiry: 1. May the tax collector garnishee a person's wages for delinquent poll taxes if employed in another county? 2. May he attach personal property for delinquent taxes when same is found in another county?

(A.G.) 1. See C. S. 7999-8002 providing remedies by which a city or county tax collector may collect taxes against the property of a delinquent taxpayer wherever any property of such taxpayer may be found in the State.

III. County and city license or privilege taxes.

A. Levy of such taxes.

5. City sewer tax.

To J. Shepard Bryan. Inquiry: May a municipality impose a sewer usage charge or tax? (A.G.) In my opinion a municipality has the right to charge a sewer tax under the conditions related in your letter. Otherwise, certain individuals would procure the unfair advantage of receiving the benefit of the town sewer system without making any contribution to the maintenance of same.

10. City automobile license.

To P. V. Critcher. Inquiry: Is the city's right to collect a $1 license tax on automobiles affected by Section 34, Chapter 52, Public Laws 1935.

(A.G.) Such a tax may not be imposed after November 1, 1935, if same is levied for the privilege of operating a motor vehicle. However, if the tax be levied as a registration fee upon the motor vehicle, such levy will not be in conflict with Section 34, Chapter 52, Public Laws 1935. The tax in the latter form would not seem to be authorized under the provisions of Section 2612 (a), C. S.

11. City licenses on for-hire cars.

To W. P. Kelly. Inquiry: Please advise the amount a city is authorized to levy and collect as license or privilege taxes for autos and trucks for hire? (A.G.) Chapter 375, Public Laws 1933, sets the figure at $1. This was not changed by the General Assembly of 1935.

Put Bulletin Service To New Use

An attorney in the western part of the State reports that he has found POPULAR GOVERNMENT'S Bulletin Service to be invaluable for keeping his information on North Carolina laws up to date with the most recent rulings of the Attorney General and various State Departments. To make the reference even more handy and useful, he has adopted the practice of annotating his copy of Michie's Code with the new rulings carried in POPULAR GOVERNMENT each month.

40. License tax on peddlers.

To R. P. Reade. Inquiry: May the county levy a peddler's tax on a person who has already paid the State a $25 license tax under Section 121 (b), Chapter 371, Public Laws 1935? (A.G.) Yes. Subsection (9), Section 121, specifically provides that counties, cities, and towns may levy a license tax under this section not in excess of the tax levied by the State.

47. License tax on slot machines.

To Thos. G. Neal. Inquiry: What taxes may be charged on slot machines?

(A.G.) Section 130, Chapter 371, Public Laws 1935, provides that the State may levy a $10 tax on machines requiring a deposit of less than 5c; a $20 tax if 5c and less than 10c; a $40 tax if 10c and not more than 20c; and an $80 tax if more than 20c. Subsection (f) provides that counties, cities, and towns may levy a tax not in excess of that levied by the State.

58. License tax on filling stations.

To W. O. Gardner. Inquiry: Please construe Section 153, Revenue Act 1935, relating to town tax on filling stations. (A.G.) Subsection (b) provides a State tax of not less than $5 a pump for filling stations in towns of less than 2,500 population, and provides that the town may levy a tax of ¼ the State tax.

65. License tax on out of town express and bus companies.

To John R. McLaughlin. Inquiry: May a city impose a privilege tax on each truck of a motor express company operating within the city. A similar tax imposed on the Southeastern Express Co. was held legal in Express Co. vs. Charlotte, 186 N. C. 668. The motor express company referred to performs the same functions, maintaining a warehouse in the city and picking up packages and making deliveries in interstate trucks.

(A.G.) This office is of the opinion that under the provisions of Section 2612 (a), C. S., cities might levy a license tax on companies operating similarly to express companies a tax of $50 per truck where they are engaged in a transfer business such as that carried on by express companies.

However, we call your attention to Chapter 375, Section 30, Subsection (d) and (3), which would prohibit the levying of more than $1 per year upon any vehicle resident within the municipality and particularly to Subsection (e), which provides that no additional franchise tax, license tax or other fee shall be imposed against any franchise motor vehicle carrier taxed under this act, nor shall any county, city or town impose a franchise tax or other fee upon them.

70. License taxes on chain stores.

To J. W. Ellis. Inquiry: Does a city have the right to levy a tax on a "chain store" which has only one unit located in the city? (A.G.) Yes. Section 162, Revenue Act, provides that cities may levy a license tax not in excess of $50 on *each* chain store located in the city. One unit in the chain is not subject to taxation, but that is the store in which the principal office is located, and must be so designated.

100. Privilege license.

To W. E. Fuqua. Inquiry: Is an electrician who engages in his profession in a town, but who does not employ other people nor maintain a place of business, liable for a town privilege tax? (A.G.) Yes.

To Jas. A. Taylor. Inquiry: May a town levy a privilege tax on each pole owned by a telephone and telegraph company located in the city limits? The town charter, contained in Chapter 302, Private Laws 1913, authorizes such a tax. Is this prohibited by Section 207d, Chapter 371, Public Laws 1935, when the latter does not specifically repeal the provision in the town charter?

(A.G.) Section 207, Chapter 371, Public Laws 1935, levies a franchise tax of 6% on the gross income of telegraph companies in the State, and explicitly prohibits the levying of such a tax by muni-

cipalities. We are of the opinion that you may not levy such a tax regardless of the provisions in Chapter 302, Private Laws of 1913.

To S. R. Hoyle. Inquiry: 1. May a county levy a privilege tax under Section 150, Chapter 371, Public Laws 1935, against a concern which rents towels and linens and which solicits and does business in the county? 2. Does Section 139, Chapter 371, Public Laws 1935, providing for certain taxes on dry cleaning plants, pressing clubs, and hat blockers apply to counties?

(A.G.) 1. If the company conducts its business in the manner described in Section 150 and if you are able to establish this fact in court, we think the statute would be upheld by the Supreme Court.

2. If you will compare Subsection (b) of this act with the same subsection in the 1933 Law, you will note that the word "counties" does not appear in the taxing section. It would seem, therefore, that counties are not permitted to levy a tax under the 1935 Act on this class of business.

IV. Public schools.

B. Powers and duties of counties.

16. Status of county-wide supplementary tax.

To D. H. Conley. Inquiry: The county wishes to secure a loan from the P.W.A. to construct school buildings in several districts. If one of the city units should oppose the program, would it be possible to go ahead and make the loan, excluding that district from the otherwise county-wide levy to repay same?

(A.G.) Through successive acts, and particularly the School Machinery Act of 1933, all agencies for building and equipping school buildings have become discharged except the county. The building of a school building in a special district is a burden on the county itself, to be met by general taxation.

It is not permissible to take into consideration the fact that any particular district has gone into debt for buildings of a type more expensive than that used in the county at large, and correspondingly it is not permissible to deprive such a district of the per capita distribution because of the fact that it has such buildings.

In other words, the county picks up the burden of furnishing school buildings throughout the county, regardless of inequalities brought about by the old practice and procedure relating to the building of school houses. Therefore, a city district cannot be excluded from the county-wide levy of taxes.

17. Apportionment of funds.

To C. G. Credle. (A.G.) Subsection (c), Section 15, Chapter 445, Public Laws 1935, provides that "all county-wide school funds shall be apportioned to county and city administrative units and distributed monthly on a per capita school enrollment basis."

It would seem, therefore, that the portion of such funds due a city administrative unit should be remitted monthly to the Board of Trustees of such unit, to be expended under the direction of the Board.

C. Powers and duties of city administrative units.

3. Apportionment of funds.

To H. B. Benoit. Inquiry: May the request from the City Administrative School Unit to the County Board of Education for funds necessary for capital outlay be made by the Commissioners or Trustees of the city unit direct, or is it necessary for it to be approved and made by the City Commissioners?

(A.G.) The title to property of a City Administrative School Unit is vested in the Commissioners or Trustees of such unit. Budget requests are compiled by the local trustees and submitted directly to the tax levying authorities of the county. This applies to all objects of expenditure except Debt Service, in which case the budget is submitted to the tax levying authorities of the city.

To E. W. Smith. Inquiry: Is a City Administrative School Unit entitled to per capita on account of: (1) expenditures by the county for school busses operated only in the county administrative unit; (2) on levies for capital outlay. (A.G.) No, in both cases.

5. Mandamus against county board.

To Herbert W. Early. Inquiry: May the County Commissioners be compelled by law to provide sufficient funds for the construction of a building necessary to carry out consolidation plans ordered by the State School Commission?

(A.G.) The duty of providing buildings and equipment necessary to the maintenance of the 6 months school term is placed by the Constitution upon the County Commissioners. The matter of determining what buildings and what equipment are necessary for such purposes rests within the discretion of the County Commissioners.

However, if it can be clearly established that a building is necessary for the maintenance of the school system and that the County Commissioners are abusing their discretion in the matter, resort may be had to the courts to compel performance by the writ of mandamus. See Hickory vs. Catawba County, 206 N. C. 165.

10. Elections to supplement state funds.

To C. A. Erwin. (A.G.) This Department has ruled that it is mandatory upon the County Commissioners to call an election for local supplement to State Budget allotments when request is made by the County Board of Education.

20. Erection of buildings.

To W. L. Mann. Inquiry: Where a City Administrative School Unit extends beyond the corporate limits of the city, and a school building is erected in the territory outside the city limits, in whom should the title be vested? (A.G.) The trustees of the Administrative Unit. See Section 4, Chapter 562, Public Laws 1933.

40. Transportation of pupils.

To T. W. Andrews. Inquiry: Does the State School Commission have authority to limit the application of the law with regard to transportation of pupils to those who reside in county administrative units?

(A.G.) In my opinion the State School Commission, under the provisions of Sections 24-5, Chapter 455, Public Laws, 1935, is vested with discretion in adopting such rules and policies in connection with the transportation of school children in the various administrative units as to it may seem necessary and advisable under all conditions and circumstances.

To F. W. Bynum. Inquiry: Does Section 5, Chapter 52, Public Laws, 1935, requiring drivers of public carrying autos to be 21 years of age, apply to school bus drivers?

(A. G.) No. If you will note Section 1, you will find that school bus drivers are exempted from the term "chauffeur." This was due to the fact that the minimum age under Section 4 for a chauffeur is 18 years. It will be seen, therefore, that the Legislature was unwilling to increase the age requirement for school bus drivers above the age of 16 years.

E. Status of former school districts and funds of those districts.

15. Debt service of former districts.

To A. E. Akers. Inquiry: A local school district abolished by the General Assembly of 1933 is in default on its bonds; also on notes issued to the County Board of Education to secure loans from the State Special Building Fund. 1. May the County Commissioners borrow money to refund these bonds and notes and levy taxes against the district to repay this money? 2. If so, would this in any way legally obligate the County to assume the indebtedness of other school districts?

(A. G.) Chapter 450, Public Laws 1935, authorizes the County Commissioners to issue bonds for the purpose of refunding or funding the principal or interest of bonds of any school district within the County. Such refunding or funding bonds shall be issued in the name of the school district, and sufficient taxes shall be levied within the district to pay the principal or interest of such bonds as the same become due.

Chapter 399, Public Laws 135, authorizes the County Commissioners to issue bonds for the purpose of funding or refunding interest and principal of notes evidencing loans to the county from the State Literary Fund or Special Building Fund. This act, however, does not authorize the county to levy a sufficient tax against the district to retire such bonds.

2. In my opinion the issuance of such bonds would in no way obligate the Board of Commissioners to assume the bonded indebtedness of any special school district in the county. In the first case, the Commissioners in issuing such bonds against the district plainly would not be assuming the indebtedness of the district, and in the second case, the county would be funding its own debt and not a debt of a special district.

16. Debt service of former districts—back taxes.

To R. E. Nimocks. Inquiry: The County levies taxes for three school funds: Current Expense, Capital Outlay, and Debt Service. Should back taxes be distributed to the funds in accordance with the original levy, or should they be credited to the Debt Service Fund only?

(A. G.) The School Machinery Act of 1933 authorizes the county authorities to levy school taxes for the following purposes: Maintenance of Plant and Fixed Charges, Capital Outlay, and Debt Service. Unless an election has been held as provided in said Act, there is no authority for levying a tax for current expenses.

The same Act, ratified May 15, 1933, provides that all uncollected taxes *heretofore* levied in the various school districts of the State for the purpose of meeting operating costs of the schools should become a part of the debt service

fund of the tax district within which they were levied, and in the event no debt service were required in such district, the funds so collected should become part of the county debt service fund.

Taxes levied *subsequent* to the passage of said Act for the purposes hereinbefore enumerated, whether collected in the year levied or subsequent thereto, should remain in the fund for the support of which they were levied.

F. School officials.

50. Teachers—election and contracts.

To T. C. Roberson. Inquiry: Does the Board of Education have the right to reject a teacher after he has been selected by the local school committee? (A.G.) Yes.

G. Poll taxes, dog taxes, fines and forfeitures accruing to schools.

To John A. Wilkins. (A.G.) Article 9, Section V, N. C. Constitution, provides that the clear proceeds of all penalties and forfeitures and all fines collected in the several counties shall be applied to establishing and maintaining free public schools in the several counties in the State.

The school fund, therefore, is entitled to all forfeitures, and there shall be deducted from such forfeitures only the actual costs incurred by the Sheriff in making collection. In addition, the Clerk will be entitled to his 5% commission allowed under C. S. 3903. Court costs are not generally deductible from the forfeitures.

V. Matters affecting county and city finance.

B. Defaults.

20. Transfer from debt service to general operating fund—prohibition against.

To H. L. Carpenter. Inquiry: A municipality in default has accepted $14,000 worth of its bonds, all due in the future, as required by S. B. 394 and S. B. 597, in payment of special assessments and back taxes, depriving the town of approximately $3,000 it anticipated for its general operating fund had these charges been paid in cash. In the light of the above facts, would it be a violation of C. S. 2492 (38) for the officials to transfer this amount $3,000 from the debt service to the general operating fund?

(A.G.) Under the circumstances it would seem the equitable thing to permit the town to follow the suggested course. However, after careful consideration, it is my best judgment that such a course would be in violation of C. S. 2492 (38), which explicitly prohibits such a transfer so long as the town is in default.

I. Issue of bonds.

5. Revenue bonds.

To Ralph H. Ramsey, Jr. Inquiry: May a town issue revenue bonds and follow the procedure set up in Chapter 473 or 426, Public Laws 1935? (A.G.) No.

20. Submission to vote.

To W. P. Horton. Inquiry: May a county issue bonds under Chapter 427, Public Laws 1935, to repair the court house without a vote of the people, if this is required by a prior local law?

(A.G.) In my opinion the Public-Local act requiring a vote of the people would prevail over the general law, and the bonds could not be validly issued without such referendum.

VII. Miscellaneous matters affecting cities.

C. Police and fire protection.

10. Fires outside city limits.

To J. B. Flora. Inquiry: Please give me your opinion as to the constitutionality of an act authorizing and empowering a city fire commission to: (1) answer calls within the limits of the city school district but outside the corporate limits; and (2) to assist neighboring towns in an emergency.

(A.G.) We have carefully examined the Public-Local Act copied in your letter and see no reason why this act is not constitutional.

20. Duty to provide for prisoners.

To J. H. Wheeler. Inquiry: Does the county jailer have the right to charge the town for keeping prisoners tried in Mayor's Court when all fees therefrom are turned over to the county? (A.G.) This Office is of the opinion that it is incumbent upon the governing board of the town to provide meals and quarters for prisoners whether kept in the city or county jail and that the jailer is within his rights in making such a charge.

E. Suits against the city.

1. Venue.

To L. W. Klutz. Inquiry: What is the proper venue for a suit against a municipal corporation? (A.G.) The county, in our opinion, in which it is located. See 151 N. C. 558.

10. Power to confess judgment.

To Chas. M. Johnson. (A.G.) Although the Supreme Court of North Carolina has not passed on the question, it is my opinion that a municipal corporation may avail itself of the procedure set up in Sections 623-5, C. S., relating to confession of judgment. See 68 Pac. 641 and Freeman on Judgments, Vol. 3, p. 2715.

J. What constitutes necessary expenses.

5. Municipal hospitals.

To Ralph H. Ramsey, Jr. Inquiry: May a town establish a municipal hospital without a vote of the people as provided by Section 7255, C. S.? (A.G.) No.

N. Police powers.

20. Regulation of trades.

To W. F. Morrison. (A.G.) In my opinion the passage of Chapter 52, Public Laws 1931, providing for state regulation and licensing of plumbing and heating contractors operating in towns over 35,000, did not repeal Section 2819, C. S., giving municipalities the same powers. Nothing in the 1931 Act is inconsistent with the powers given municipal corporations in this respect. A municipal corporation, of course, has no authority to license a person who has not met the requirements and regulations established by the State Board under the 1931 Act.

Y. Street assessments.

To W. H. Prevost. Inquiry: May a town levy a street tax similar to the old county road tax? (A.G.) A town has no authority to levy such a tax. You understand, of course, that this does not apply to the right to levy special assessments upon abutting property (C. S. 2703) to assist in paying for street improvements.

10. Interest on past due assessments.

To Z. A. Morris, Jr. Inquiry: May the city charge compound interest on past due assessments for street paving? (A.G.) No. This is done in ordinary debts, but not in the case of taxes and special assessments, unless there is some special authority of law.

VIII. Matters affecting chiefly particular local officials.

A. County Commissioners.

5. Trading with member of board.

To W. L. Mull. (A.G.) This Office is of the opinion that a county commissioner would not violate the law by accepting food orders at his store issued by the county to the county poor.

32. Power to dismiss employees.

To Charles Hughes. Inquiry: Has the Board of County Commissioners the right to dismiss the county accountant for cause prior to the end of his term?

(A.G.) Under Section 1334 (54), C. S., the county accountant holds office at the will of the Board of Commissioners. It naturally follows that the Board may remove the accountant for causes satisfactory to the Board at any time. The only limitation is that the Board act in good faith.

50. Power to fill vacancies on Board.

To B. A. Simpson. (A.G.) Vacancies on the Board of County Commissioners caused by the death of a member are filled by the Clerk of the Superior Court (C. S. 1294), and not by the Board of Commissioners, as you were previously advised. If appointment has been made pursuant to our letter, I think you had better have it confirmed by the Clerk.

B. Clerks of Superior Court.

1. Salary and fees.

To A. W. Graham, Jr. Inquiry: Does Chapter 379, Public Laws 1935, changing the schedule of fees for Clerks, have any effect in counties which already had public-local acts fixing the fee bills in said counties?

(A.G.) It is the opinion of this Office that Chapter 379, Public Laws 1935, has the effect of repealing all Public-Local fee bills of the counties unless such counties were exempted from the provisions of the Act.

To E. O. Ayscue. Inquiry: Is a Clerk (on salary) entitled to a commission for collections on tax suits? (A.G.) We do not have before us the Public-Local Law placing your Clerk on salary basis. However, in the absence of any special legislation which so allows, this Office is of the opinion that the Clerk is not so entitled.

10. Collection of process tax.

To Fred F. Church. Inquiry: Is the Clerk required to collect state process tax on special proceedings?

(A.G.) Under Section 157 a process tax is imposed when summons is sued out in a civil action. Under C. S. 391 remedies in the courts are divided into (1) Actions and (2) Special Proceedings. The distinction between the two is carried out in the subsequent sections of the law.

When there is any doubt as to the liability for taxes, it is always resolved in favor of the taxpayer. We do not think that a process tax should be levied in special proceedings.

13. Actions without cost bond.

To Fred F. Church. (A.G.) In my opinion an action for divorce may be instituted in forma pauperis, but not a proceeding in claim and delivery nor an attachment proceeding. In the latter cases, the bond is required for the purpose of indemnifying the parties against loss of the property, and there is no provision

in the Statute that such bond may be dispensed with.

20. Criminal appeals.

To A. L. Hux. Inquiry: Does the Clerk and ex officio Clerk of Recorder's Court have the authority to fix the amount of bail in misdemeanors pending before the Recorder?

(A.G.) The Clerk does not appear to be one of the officials upon whom such authority is conferred by C. S. 4574-5-9. Sometimes when the amount of bail is fixed by a competent court or by a judge authorized to admit to bail, authority is given by such judge to the Clerk of the Court to approve of the bond. Only in such cases has he authority in the matter.

To J. E. Swain. Inquiry: On an appeal to the Supreme Court in a criminal case, may the appearance bond and the cost bond be included in the same understanding, or is it necessary that they be on two or three separate forms?

(A.G.) The appeal bond is filed in the Superior Court and the cost bond with the Clerk of the Supreme Court. In lieu of the cost bond certain Defendants may appeal in forma pauperis by application and proper order in the court allowing same.

25. Commitment of persons to State Hospital.

To H. R. Thompson. Inquiry: Is the Clerk given authority to commit insane persons to jail, county home, etc.? (A.G.) See Article 3, Chapter 103, Michie's Code 1931 (Secs. 6184-6212), setting out such powers as are given the Clerk in connection with placing insane persons in State Hospitals.

82. Decedents' estates — administrator's and guardian's bonds.

To A. L. Hux. Inquiry: Where the administrator of an estate resides in another county, may the acknowledgment of the execution of his bond be taken before the Clerk of Superior Court of the second county?

(A.G.) There is no reason why an administrator's bond may not be executed before the Clerk of Superior Court of any county in the State. However, the acceptance and approval of the bond, of course, are entirely within the jurisdiction of the Clerk in the county where the bond is required to be filed.

C. Sheriffs.

1. Fees.

To R. L. Bradley. Inquiry: Is a Sheriff who also acts as Tax Collector and who is paid on a salary basis entitled to additional compensation for preparing the list for advertising delinquent taxes for sale?

(A.G.) Section 1334 (48), C. S., requires that the Sheriff compile a list of delinquent taxpayers and submit the same to the County Commissioners on the first Monday in May of each year. It would seem, therefore, that this is a part of his official duties, and he being paid on a salary basis, that no additional compensation could be demanded by him. The Commissioners, however, in their discretion, might properly make some allowance to his office for additional clerk hire or stenographic services made necessary in preparing such list.

D. Registers of Deeds.

30. Documentary stamps.

To Eric Norfleet. Inquiry: Does a deed require stamps if it was dated and executed (1923) before but registered after the passage of the Act requiring stamps? (A.G.) No. The tax represented by these stamps is upon the transfer of the property conveyed at the time of such transfer, and does not represent a levy required for the recording of the instrument of conveyance.

L. Local law enforcement officers.

24. Prohibition—1935 Liquor Control Acts.

To P. B. Ruffin. Inquiry: May a shipper of alcoholic beverages legally store its products in a warehouse located in New Hanover County, to be distributed in such county and other counties where liquor may be legally sold?

(A.G.) In my opinion, such a course would violate the Local Control Act, which provides that only the A. B. C. Board shall have *power to purchase or import* alcoholic beverages into the county containing over 5% alcohol by weight.

27. Prohibition—home brew.

To D. H. Francum. Inquiry: What is the law now as to the making of so-called home brew? (A.G.) the manufacture, sale, or possession of home brew, having an alcoholic content of not more than 5% by weight, was legalized by Chapter 319, Public Laws 1933, as amended by Chapter 134, Public Laws 1935.

30. Slot machines.

To Fred Folger. Inquiry: Is the issuance of a license by the Revenue Department conclusive on the question of the legality of operation of a slot machine?

(A.G.) Subsection (c), Section 130, Chapter 371, Public Laws 1935, provides that the Commissioner of Revenue is authorized to presume when application is made for license to operate a slot machine that the operation of such machine is lawful.

To Geo. R. Uzzell. Inquiry: Does the first slot machine law passed by the 1935 General Assembly (Chapter 37) apply in the counties exempted from the operation of Chapter 282 or the second law on the subject? (A.G.) Yes. The repealing clause contained in Chapter 282 did not repeal Chapter 37 insofar as it affected the exempted counties.

36. Anti-Rabies Law.

To C. K. Hughes. (A.G.) You are advised that the provisions of Section 4, Chapter 122, Public Laws 1935, are directory and not mandatory.

To Roy J. Moore. Inquiry: May a licensed veterinarian vaccinate dogs under the Rabies Act in any township in the county, or is he limited to his own township as the Rabies Inspectors are limited to the township for which they are appointed? (A.G.) This Office is of the opinion that it is entirely proper for a licensed veterinarian to vaccinate dogs in any township in the county.

To J. E. Hodges. Inquiry: The Rabies Law provides that a man who has his dog vaccinated by a registered veterinarian is entitled to have the 50c credited on his dog tax. Is the veterinarian's certificate sufficient to secure this credit from the tax collector, or is it necessary to present it to a rabies inspector and receive a state certificate? (A.G.) The latter is necessary. See Section 6, Chapter 122, Public Laws 1935.

55. Police—residence and qualifications.

To O. B. Moss. Inquiry: May a town employ as police officer a person who resides outside the corporate limits? (A.G.) This Office is of the opinion that the case of Ford vs. Hall, 111 N. C. 389, referring specifically to police *chiefs*, would not apply, and that a policeman may reside outside the town limits unless he be the chief.

90. Warrants.

To Chas. C. Smathers. (A.G.) There is no Statute of Limitations which would run against a warrant which had not been served, and a motion to dismiss simply because the warrant had not been served for a period of over a year would not lie. A motion to dismiss where the crime is of the grade of a misdemeanor would lie upon the plea that the crime had been committed more than two years before service of the warrant, but this would not affect the warrant in any way.

Q. Municipal officials.

10. Accountant.

To L. L. Ranes. (A.G.) Section 2492 (44), C. S., requires that the Governing Body of every city and town shall appoint some person, to be approved by the Local Government Commission, as Accountant. The Act does not require that such person be a certified public accountant. However, in the event that such person also acts as a tax collecting official, then, it becomes the duty of the Governing Body to require that the records of such tax collecting officer be audited semi-annually by a certified public accountant or a public accountant registered under Sections 7024 (a)-7024 (n), C. S.

T. Justices of the Peace.

5. Costs.

To G. L. Utt. Inquiry: Is the county liable for any part of the fees in criminal actions in a Justice's or Recorder's court? (A.G.) This is to advise that in no action where a J. P. has final jurisdiction, commenced or tried in a court of a J. P., Mayor, County or Recorder's Court, shall the county be liable to pay any costs. See Chapter 252, Public Laws 1931.

25. Justice's Court—right of trial by jury.

To J. E. Paschal. Inquiry: Is the Defendant in a case before a J. P. entitled to demand a trial by jury? (A.G.) Only in cases where the J. P. has final jurisdiction.

U. Notary Public.

5. Instruments in which witness is grantee.

To W. E. Church. (A.G.) This Office is of the opinion that Chapter 168, Public Laws 1935, which makes invalid the acknowledgment of an instrument or probate of an instrument by the oath and examination of the subscribing witness who is also a grantee in the instrument or the agent and servant of such grantee, applies to corporations as well as to private individuals. The act further provides that the registration of an instrument so acknowledged or probated shall be invalid.

10. Contracts in which employer is interested.

To Phillips and Bower. (A.G.) Chapter 168, Public Laws 1935, would not have the effect of preventing a Notary from taking acknowledgments on contracts in which an employer is interested. This Chapter deals only with acknowledgments of subscribing witnesses to such instruments.

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